



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: February 10, 2017
Comment Deadline: March 13, 2017
Corps Action ID Number: SAW-2011-00247

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. James Randy Miller seeking Department of the Army authorization to impact 220 linear feet of stream channel resulting from the construction of two poultry houses in Yadkinville, Yadkin County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: Mr. James Randy Miller
3001 Miller Road
Yadkinville, NC 27055

AGENT (if applicable): Wetlands and Environmental Planning Group
Ms. Amanda Jones
1070 Tunnel Road, Building 1, Suite 10, PMB 283
Asheville, North Carolina 28805

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: The site is located at 3007 Miller Road, in Yadkinville, Yadkin County North Carolina 27055. Miller Road is located off of Courtney Huntsville Road, approximately 2.5 miles east of the intersection of Courtney Huntsville Road and Hwy 601.

Project Area (acres): approximately 39 acres
Nearest Waterway: Chinquapin Creek
Latitude and Longitude: 36.060076N, -80.603090W

Nearest Town: Yadkinville
River Basin: 03040101

Existing Site Conditions

Currently the site is a mix of residential and agricultural development with two existing poultry houses on site and small portions of undeveloped wooded areas. The site ranges in elevation from 840 feet above sea level to 880 feet above sea level and is underlain with Clover sandy clay loam (CmB, CmC, CmD, CoB2 and CoC2), and small portions of Delila fine sandy loam (Dob) Soils. There are streams and ponds located within the project area.

Applicant's Stated Purpose

The applicant's stated purpose is as follows:

"The basic project purpose is to increase poultry production in the area. The overall project purpose is to construct two additional poultry houses."

Project Description

The project involves the impact to 220 lf of perennial stream channel resulting from the construction of two poultry houses which would expand the current poultry operation on site. The original poultry houses were permitted after-the-fact in April 2011 and involved the installation of a 24" pipe in the stream channel for the building pad which resulted in 300 lf of stream channel impacts. The currently proposed work would involve the extension of the existing 24" pipe with a 36" pipe in order to extend the building pad enough to allow the construction of two additional poultry houses. The location was determined by the applicant to be the most practicable in order to utilize existing infrastructure that was installed with the current two house to include site access, existing wells with capacity for four total houses and electrical wiring. Other constraints considered by the applicant include distances from residential dwellings, property lines and orientation preferences for the layout of the poultry houses themselves. In general, an east-west facing alignment is preferred to keep the houses at a cooler temperature and to reduce bird stress/mortality. Also, according to the applicant, aligning the houses in consecutive rows provides for optimal placement of venting systems which reduces the risk of viruses/bacteria being transferred between houses.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

In general, the applicant evaluated other on and off-site alternatives which the applicant determined would not be practicable to meet the project purpose/need. Due to the location of the existing chicken houses/ infrastructure and setback requirements, the applicant indicated that

siting options for the two additional houses is limited. The preferred location was determined by the applicant to be the most practicable in order to utilize existing infrastructure that was installed with the current two houses to include site access, existing wells with capacity for four total houses, and electrical wiring. Other constraints also considered by the applicant during the siting of these additional houses included distances from residential dwellings, property lines, and orientation preferences for the layout of the chicken houses themselves. In general, according to the applicant, an east-west facing alignment is preferred to keep the houses at a cooler temperature and to reduce bird stress/mortality. Also, the applicant indicated that aligning the houses in consecutive rows provides for optimal placement of venting systems which reduces the risk of viruses/bacteria being transferred between houses. The stream channel bisects the project area and, the applicant indicated, cannot be avoided to complete the project as proposed. The applicant stated that the minimum length of stream channel needed has been proposed in order to allow the construction of these two houses adjacent to the existing houses. The applicant is proposing mitigation through payment into North Carolina Division of Mitigation Services (NCDMS).

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The applicant is proposing mitigation through payment into North Carolina Division of Mitigation Services (NCDMS) in an amount necessary to restore 220 lf of stream channel.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.

- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information:

- The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by March 13, 2017 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

- The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt,, concurrence or objection from the NCDCM.
- Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, March 13, 2017. Comments should be submitted to Crystal Amschler, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980 extension 4231.