



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: July 8, 2019  
Comment Deadline: August 7, 2019  
Corps Action ID Number: SAW-2005-30087

The Wilmington District, Corps of Engineers (Corps) received an application from Catawba County seeking Department of the Army authorization to excavate and fill 0.56 acres of pond, 0.06 acres of wetland, and 1,207 feet of unnamed tributaries of the South Fork Catawba River, associated with the municipal solid waste landfill cells construction by placing leachate pipes and a liner at the Blackburn Sanitary Landfill, 4017 Rocky Ford Road, Newton, Catawba 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:** Catawba County  
Mr. Mick Berry  
PO Box 389, Newton, NC 28658  
828-465-8201  
MBerry@CatawbaCountyNC.gov

**AGENT (if applicable):** CDM Smith/Kelly Boone  
5400 Glenwood Avenue, Suite 400, Raleigh, NC 27612  
919-325-3508  
boonekr@cdmsmith.com

## 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**

### Location Description:

Project Area (acres): 230  
Nearest Waterway: South Fork Catawba River  
Latitude and Longitude: 35.6029703831466 N; -81.3022857472333 W

Nearest Town: Newton  
River Basin: Catawba  
HUC 030501020403

## **Existing Site Conditions**

The Unit 3 Phase 3 and Phase 4 boundaries for the existing landfill are based on the overall landfill facility master plan map found in Appendix A (attached). The western boundary of the study area for this project abuts the existing Unit 3 Phase 1 area, and the future Phase 2 area, which is currently undergoing permitting and construction. The northern boundary of the project area is the 300-foot buffer from the right-of-way of Rocky Ford Road. The eastern boundary of the project area is the 300-foot buffer from the property line. The southern boundary of the project area is the boundary with Unit 4, which is the top of a ridge at approximate elevation 884 feet.

## **Applicant's Stated Purpose**

The purpose of this project is to address Catawba County's solid waste disposal needs for the next 85 years. The existing Subtitle D landfill is expected to reach its capacity within approximately 13 years with the addition of Unit 3 Phase 2, which is expected to start construction in Spring 2019 (the Unit 3 Phase 2 expansion will not impact any jurisdictional areas). The Subtitle D landfill serves as an environmentally safe and cost-effective means of waste disposal for the County's municipal partners and private-sector waste haulers that pick up and deliver waste to the landfill.

## **Project Description**

Catawba County is planning for future expansions of the 230-acre Blackburn Sanitary Landfill on Rocky Ford Road near Newton. Expansion of the Subtitle D landfill into the Units 4 and 5 areas will require impacts to Waters of the United States (WOUS). The Units 4 and 5 expansion areas are designated as Unit 3 Phases 3 and 4 on the overall landfill facility master plan map.

## **Avoidance and Minimization**

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

1. Expand Landfill at Current Site While Avoiding Wetlands
  - a) After the construction of Unit 3 Phase 2 in spring 2019, Catawba County proposes to expand the municipal solid waste landfill by 212 acres which will include the addition of

9 Units (Unit 4-12) and provide the County with approximately 35,000,000 cubic yards of waste disposal airspace and 72 years of operating life. These lateral expansions will require impacts to WOUS.

- b) The state regulatory require a 50ft buffer from the edge of waste to the wetlands. However, a 105ft buffer is recommended to provide enough space for perimeter roads, ditches, and berms. By providing a 105ft buffer around all wetlands located at the site, it is estimated the landfill will lose approximately 25 years of operative life. This reduction in operating life corresponds to a 41% loss of airspace and a loss of revenue to up to \$307 million. The loss of airspace and revenue was calculated using current disposal quantities and tipping fees; however, it is expected that disposal quantities and tipping fees will be increased in the future.
- c) Due to the significant loss of operating life and the financial impact to the County, avoiding the wetlands does not meet the project's purpose or need, and is not considered a feasible alternative to the proposed project.

## 2. Construct New Landfill on Another Site

- a) Fourteen potential alternative sites were identified. Under the 2005 Site Study, the alternatives were evaluated based on the four feasibility criteria adopted by the County Board of Commissioners:
  - i. The site shall be at least 600-acres in size to cover the 150-200-acre landfill footprint, required buffer zones, site limitations, and/or new infrastructure and borrow/fill areas; and it shall be made up of not more than three contiguous parcels
  - ii. The site shall be as accessible as the existing Blackburn Landfill (hauling distance from waste generation centroid to landfill site is within 5 minutes of the driving time from the waste generation centroid to the landfill).
  - iii. The site must provide at least 25-years of landfill capacity.
  - iv. The cost to acquire the site and to operate a landfill on such site must be comparable to the proposed expansion at the Blackburn Landfill
- b) Of the initial 14 potential alternative sites, two were eliminated based on property size with not more than three contiguous parcels. Based on the siting studies and North Carolina Solid Waste management Rules, which contain the primary regulations governing the siting of landfills in the state, five additional sites were eliminated as infeasible due to regulations. Four sites were considered infeasible due to the accessibility criterion. The remaining three sites along with the existing site were evaluated in more detail in the 2005 Site Study.
- c) The 2005 Site Study identified the existing Blackburn facility as the preferred site in comparison to the other three evaluated sites. The Blackburn facility had clear advantages over all the sites with respect to institutional criteria and had an advantage over two of the three sites with respect to engineering and environmental criteria. Other important advantages of the Blackburn facility included the County's ownership of the proposed expansion site, the anticipated ease of permitting, and the proximity to the County's critical customer, City of Hickory, and the relatively low cost.

## 3. Transport Waste to Another Facility

- a) Another alternative has been considered is transporting solid waste to another waste disposal facility. This option would involve constructing and operating a transfer station at the existing landfill site. The County would contract out to a private operator either just

the hauling or both hauling and operations of the transfer station. The County would request competitive bids for contract services, and all the County's solid waste would be transported to a landfill outside Catawba County for disposal. It is not possible at this time to identify which landfill would receive the County's solid waste, because selection of the landfill would be subject to the competitive bidding process.

- b) The closest municipal solid waste landfill is the Lincoln County Landfill; however, the landfill is not permitted to receive waste from Catawba County. The closest public landfill that is permitted to receive waste from Catawba County is the Gaston County Landfill which is approximately 20 miles south from the Catawba County Landfill. However, it is uncertain that the Gaston County Landfill would be able to accept an additional 135,600 tons per year of waste, which would drastically exhaust the landfills airspace capacity. The next closest landfill is the private Foothills Environmental Landfill, which is approximately 30 miles north of the Catawba County Landfill. However, hauling waste to the Foothills Environmental Landfill would require a longer hauling distance and higher transportation costs.

#### 4. Construct Waste-to-Energy Facility

- a) Waste-to-energy (WTE) facilities involve combustion of solid waste to reduce the amount of waste and recover its energy. WTE facilities were widely used throughout the US until the air quality requirements associated with the 1970 Clean Air Act triggered expensive upgrades. Additional WTE facilities were built in the 1980s, but just a few new facilities have been built in the past 25 years. As landfill space continues to decline and air pollution control technology has improved significantly, WTE technology is becoming more of a viable solution for some communities. In addition to WTE, several communities are evaluating the potential of alternative waste conversion technologies such as gasification and anaerobic digestion; however, these alternative technologies are in pilot stages of development and are not yet capable of handling full-scale solid waste disposal operations.
- b) Considerations in siting a WTE facility include air emissions, health risks, noise traffic, and land use compatibility. While future environmental benefit of obtaining energy from a renewable resource is attractive, the capital cost of constructing a WTE facility is significantly (3 to 4 times) higher than constructing municipal solid waste landfill. Tipping fees for a landfill are typically in the \$30 to \$60 per ton range, while tipping fees for a WTE facility can easily exceed \$80 to \$100 per ton. Within North Carolina, there are currently no WTE facility in operation.

#### 5. Reduce Waste

- a) Catawba County currently has a curbside recycling program, which collects paper such as cereal boxes, newspaper, magazines, and phonebooks; corrugated cardboard; steel cans; plastic bottles; glass containers; and aluminum. The County also has five convenience centers which accept trash, bulky waste, and all items included in the curbside recycling program. The convenience center located at the Facility also accepts appliances, scrap metal, antifreeze, electronics, paint, cooking oil and grease, and motor oil and filters. Tires and yard waste are also accepted at the Facility. The County also sponsors an annual household hazardous waste collection event.

6. No Action Alternative

- a) If the landfill expansion is not constructed, Catawba County will not be able to cost-effectively manage the disposal of solid waste in order to protect the public health, safety and welfare, and enhance the environment of the residents and businesses within the county. The landfill will run out of space in approximately 13 years, and the County will be forced to build a transfer station (built by the County or privately owned) and haul the waste out of the County at a higher cost to the citizens. The addition of 135,000 tons of waste annually to an out-of-county landfill will shorten the life of that facility which could lead to additional wetlands or stream impacts associated with lateral expansions of that landfill. The No Action alternative also represents a loss of responsible control by the County over disposal of its waste. This is not a practicable or feasible alternative.

**Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant intends to purchase mitigation credits from the North Carolina Division of Mitigation Services in order to offset unavoidable impacts to jurisdictional areas.

**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 will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
  - The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS.
  
- 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 July 29, 2019 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 will 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 August 7, 2019. Comments should be submitted to Catherine M. Janiczak, Asheville Regulatory Field Office , 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006 , at (704) 510-1438.