



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: August 5, 2019
Comment Deadline: September 4, 2019
Corps Action ID Number: SAW-2019-00082

The Wilmington District, Corps of Engineers (Corps) received an application from the Town of Smithfield seeking Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with the expansion of the existing Smithfield Water Treatment Plant (WTP) raw water reservoir. The proposed project is located in the Town of Smithfield, in Johnston 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: Town of Smithfield
Mr. Ted Credle
Post Office Box 761
Smithfield, North Carolina 27577

Agent: Mogensen Mitigation, Inc.
Mr. Gerald B. Pottern
104 East Chestnut Avenue
Wake Forest, North Carolina 27587

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: The Smithfield WTP is located in central Johnston County, in the Town of Smithfield and can be accessed off of North 2nd Street. The raw water reservoir proposed to be expanded is located in the floodplains of both Buffalo Creek and the Neuse River and is directly behind the Smithfield WTP office building west of North 2nd Street. The proposed project area consists of approximately 16 acres of land encompassing the proposed raw water reservoir expansion area that is located within the larger Smithfield WTP property.

Project Area (acres): ~16 acres
Nearest Town: Smithfield
Nearest Waterway: Buffalo Creek and Neuse River
River Basin: Neuse
Latitude and Longitude: 35.518577 N, -78.347305 W

Existing Site Conditions

The proposed project area is an approximately 16 acre site located in the coastal plain physiographic region of North Carolina. Elevations range from 110 feet above mean sea level (MSL) in the floodplains around Buffalo Creek to 124 feet above MSL in the northern portion of the proposed project area.

Existing development in the proposed project area is limited to the existing raw water reservoir, an access drive to the raw water reservoir, and the Buffalo Creek greenway trail. A majority of the proposed project area consists of undeveloped bottomland hardwood forest in the floodplain of both Buffalo Creek and the Neuse River.

The proposed project area is located in the Neuse River Basin Hydrologic Unit Code (HUC) 03020201 and is bounded by Buffalo Creek to the south and the Neuse River to the west. Wetlands adjacent to Buffalo Creek occur within the proposed project area.

No streams are contained within the proposed project area, but the project area bounds both the Neuse River and Buffalo Creek. Buffalo Creek carries the North Carolina Division of Water Resources (DWR) surface water classifications of “C” and “NSW” and the Neuse River carries the DWR surface water classifications of “NSW” and “WS-V.” The classification C refers to those waters protected for uses such as secondary recreation, fishing, wildlife, fish consumption, aquatic life including propagation, survival and maintenance of biological integrity, and agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. The classification NSW (Nutrient Sensitive Waters) is a supplemental classification intended for waters needing additional nutrient management due to being subject to excessive growth of microscopic or macroscopic vegetation.

The proposed project area contains approximately 1.85 acres of wetlands. These wetlands are primarily characterized by the North Carolina Wetland Assessment Method (NCWAM) as bottomland hardwood forest and floodplain pool. Vegetation in the bottomland hardwood forest consists of a canopy dominated by green ash (*Fraxinus pennsylvanica*), red maple (*Acer rubrum*), sweetgum (*Liquidambar styraciflua*), American elm (*Ulmus americana*), overcup oak (*Quercus lyrata*), and willow oak (*Quercus phellos*); a sapling/shrub layer dominated by red maple, possum-haw (*Ilex decidua*), Chinese privet (*Ligustrum sinense*), and American hornbeam (*Carpinus Caroliniana*); and an herbaceous and woody vine layer dominated by shallow sedge (*Carex lurida*), cross-vine (*Bignonia capreolata*), poison-ivy (*Toxicodendron radicans*), common greenbriar (*Smilax rotundifolia*), and trumpet creeper (*Campsis radicans*). Vegetation in the floodplain pool consists of a canopy dominated by red maple, American elm, and overcup oak; a sapling/shrub layer dominated by red maple, and possum-haw; and an herbaceous and woody vine layer dominated by lizard's tail (*Saururus cernuus*), shallow sedge, common greenbriar, and trumpet creeper.

The proposed project area for the raw water reservoir expansion was delineated to identify the presence and location of potentially jurisdictional waters of the United States. The field work for the delineation was conducted on June 13, 2018. The delineation was reviewed and verified by the Corps on February 1, 2019.

Applicant's Stated Purpose

The applicant's stated purpose is to enlarge the existing raw water intake reservoir to increase capacity to 25 million gallons, as part of an upgrade and treatment capacity increase at the water treatment plant. The North Carolina Department of Environmental Quality (DEQ) Division of Water Infrastructure requires the raw water storage capacity to meet or exceed two times the plant's rated daily flow.

Project Description

The proposed project consists of expanding the existing Smithfield WTP raw water reservoir in order to increase capacity and meet regulatory requirements. The raw water reservoir would be expanded southward by clearing and grubbing 3.2 acres of floodplain forest, then adding fill and grading to create a 2-acre diked area adjacent to the existing 4 acre raw water reservoir. A toe drain pipe system would be installed in the base of the earthen dike to collect seepage water which would then be discharged into the forested floodplain east of the raw water reservoir. The discharge pipe headwall and riprap dissipator pad associated with the toe drain pipe system would be constructed outside of the wetland. Implementation of the proposed project would result in direct impacts to 0.25 acre of wetlands.

There are additional upgrades proposed to the Smithfield WTP; however, these upgrades would occur outside of any potentially jurisdictional waters of the United States on previously cleared uplands located adjacent to the existing WTP buildings. The proposed

improvements to the WTP, aside from the raw water reservoir expansion, are not included in the proposed project area. Additionally, approximately 500 feet of the existing Buffalo Creek greenway trail would be closed as a result of the proposed project. A replacement trail is proposed to be permitted and built in conjunction with a future proposed wastewater force main project that is being planned by Johnston County.

Avoidance and Minimization

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

The Smithfield WTP design team considered expanding the raw water reservoir either eastward or southward (proposed project), as northward would interfere with the existing intake pumping facilities. An eastward expansion of the raw water reservoir would result in fewer wetland impacts than the southern expansion option. However, an eastward expansion is not the preferred alternative as it would conflict with FEMA guidance for reducing flood rise impacts, as an expansion eastward would be perpendicular to the direction of flood flow and would raise flood elevations upstream.

A southward expansion of the raw water reservoir would be parallel to flood flows and would avoid flood rise impacts and the need for FEMA modeling. The southward expansion is constrained by a proposed Johnston County wastewater force main project, which would serve the County's existing Buffalo Creek Lift Station adjacent to the Smithfield WTP. The proposed force main alignment is 270 feet south of the existing reservoir perimeter fence. The proposed reservoir embankment slope is designed to be as steep as possible to allow the toe of the embankment to be 75 feet from the future wastewater force main which would allow for maintenance and repair of the force main should a break occur. The new reservoir perimeter fence would also be as close to the toe of fill as possible in order to minimize wetland impacts. The proposed wetland impact (0.25 ac) is the minimum practicable in order to avoid flood rise impacts and maintain a safe distance from the proposed wastewater force main.

Compensatory Mitigation

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

The project proposes impact to 0.25 acre of non-tidal headwater forest wetlands, and the applicant proposes to mitigate these impacts at a 2:1 mitigation to impact ratio. The applicant attached a statement of availability from RES indicating that RES is currently able to provide enough credits to satisfy the mitigation requirements of 0.5 riparian wetland mitigation credits from the EBX-Neuse sponsored Neu-Con Wetland & Stream Umbrella Mitigation Bank (Hannah Bridge Site) in the Neuse HUC 03020201.

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 August 26, 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, September 4, 2019. Comments should be submitted to Mr. Ross Sullivan, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884 extension 25 or roscoe.l.sullivan@usace.army.mil.