



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: July 30, 2019
Comment Deadline: August 30, 2019
Corps Action ID Number: SAW-2019-01374

The Wilmington District, Corps of Engineers (Corps) received an application from the Town of Fuquay-Varina seeking Department of the Army authorization to discharge fill material into wetlands Hydrologic Unit Code (HUC) 03020201 (Neuse River Basin), associated the Westec Way Extension, in Wake 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 Fuquay-Varina
Attn: Tracy Stephenson
405 Spring Ave
Fuquay-Varina, NC 27562

Agent: WithersRavenel
Attn: Troy Beasley
219 Station Road, Suite 101
Wilmington, NC 28405

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 project is ±0.8 acres in size and is located at the western terminus of Westec Way, west of the intersection of Westec Way and Technology Park Lane in Fuquay-Varina, Wake County.

Project Area (acres): .8 Nearest Town: Fuquay-Varina
Nearest Waterway: Basal Creek River Basin: Neuse
Latitude and Longitude: 35.6188N, -78.8092W

Existing Site Conditions

The proposed corridor contains primarily a combination of commercial and residential development.

This project lies within the Piedmont Physiographic Province in the Neuse River Basin (Hydrologic Unit Code 03020201). Jurisdictional features within the project study area that would be impacted include one riparian wetland adjacent to Basal Creek (North Carolina Division of Water Quality (NCDWQ) Classification B;NSW NCDWQ Index No. 27-43-15-3).

There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply II (WS-11) waters within 1.0 mile of the project area. No waters within the project area and/or within a mile of the project area are listed on the 2012 303(d) Final List of Impaired Waters of North Carolina.

Applicant's Stated Purpose

The purpose of the proposed project is to construct the extension of Westec Way to make it a fully functional road providing a connection from Technology Park Lane to NC 55 Hwy.

Project Description

The project consists of the construction of a ±400 linear foot section of road which will provide the connection between the western terminus of the existing Westec Way and the portion of Westec Way being constructed as part of the Basal Creek Apartments project (AID: SAW-2008-00354 / NCDWR Proj #18-1004) which will extend to NC 55 Hwy (N. Broad Street).

The proposed road will extend through an existing beaver impoundment/herbaceous wetland. Two 48-inch RCP culverts will be installed within the road which will provide a hydrologic connection and convey flow and aquatic life passage between the beaver impoundment wetlands on both sides of the road. The culverts will be installed a

minimum of 12- inches below the substrate to ensure continued flow during periods of low water levels. Headwalls and wing walls will be constructed on both ends of the culvert in order to stabilize fill and minimize impacts. A rip-rap dissipater will be constructed on below the downstream end of the culvert in order to dissipate energy and prevent erosion within the wetlands.

During construction, work will be completed “in the dry” by constructing a temporary dam (sheet pile, coffer dam, etc) around the entire project area and water will be pumped out of the project area during construction. Downstream flow will be maintained by pumping water around the construction area during construction. Once construction is complete, the temporary dam will be removed and the area restored to natural grade and temporarily seeded, if possible, depending on the water levels.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Prior to site plan design, the applicant requested that a detailed wetland delineation be conducted so that impacts to wetlands and “waters” could be minimized.

Since the project consists of the connection of two road stubs to create a fully functional road, impacts could not be avoided. Impacts were minimized by crossing the stream and wetlands as close to perpendicular as possible. Additionally, the culvert has been designed to be installed 12- inches below the substrate to allow for flow during periods of low water in the beaver impoundment.

The rip-rap dissipater will be constructed below the downstream end of the culvert in order to dissipate energy and prevent erosion of the wetland.

Head walls and wing walls have been designed on both ends of the culverts to stabilize road fill and minimize impacts. Additionally, wetland impacts have been minimized to design the backslopes at a 3:1 slope to return road fill to natural grade, which is the minimum slope allowed by NCDOT standards.

Neuse River riparian buffer impacts have been minimized by crossing the stream/buffers at as close to perpendicular as possible.

Permanent riparian buffer impacts are less than 1/3 acre, and therefore are classified as “Allowable”.

During construction, silt fencing will be installed around all areas to be disturbed to prevent sediment from escaping into undisturbed wetlands. Additionally, since the proposed road connection will be constructed through a beaver impoundment, a temporary dam (sheet pile, coffer dam, etc) will be constructed around the entire project area and water will be pumped out of the project area during construction so work can be completed “in the dry”. Downstream flow will be maintained by pumping water around

the construction area during construction. Once construction is complete, the temporary dams will be removed and the area restored to natural grade and temporarily seeded, if possible, depending on the water levels.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant proposes to mitigate for the 0.59 acres of permanent wetland impacts through the purchase of offsite mitigation credits at a 2:1 ratio, resulting in the purchase of 1.18 acres of riparian wetland mitigation credits. The applicant proposes to provide the 1.18 acres of riparian wetland mitigation through the purchase of credits from RES within the Neu-Con Wetland & Stream Mitigation Bank – Hannah Bridge Site.

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 19, 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 30, 2019. Comments should be submitted to Mr. James Lastinger, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884-ext 32 or via email at James.C.Lastinger@usace.army.mil.