



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: December 31, 2020
Comment Deadline: January 30, 2021
Corps Action ID Number: SAW-2019-01814

The Wilmington District, Corps of Engineers (Corps) received an application from Durham Public Schools seeking Department of the Army authorization to discharge dredged or fill material into 639 linear feet of stream channel, associated with the construction of a new Northern High School to replace the existing Northern High School in Durham, Durham 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:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: Mr. Bernard Hall
Durham Public Schools
2011 Hamlin Road
Durham, North Carolina 27704

AGENT (if applicable): Ms. Anna Reusche
SEPI Engineering and Construction, Inc.
1 Glenwood Ave, Suite 600
Raleigh, North Carolina 27603

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 proposed project area is located at 4622 and 4804 North Roxboro Street, Durham, Durham County, North Carolina.

Project Area (acres): ~76.5 Nearest Town: Durham
Nearest Waterway: Eno River River Basin: Neuse
Latitude and Longitude: 36.062647 N, -78.900202 W

Existing Site Conditions

The proposed project area is in the Triassic Basin of the Piedmont Physiographic Province. The region's geology consists of slightly metamorphosed sedimentary and igneous rocks. Project area geomorphology generally includes forested uplands with relatively narrow streams and wetlands sloping north to the Eno River, surrounded by adjacent riparian buffers. Two (2) public sewer easements transect the project area in both the central portion as well as in the southeastern corner of the property. The elevation for the project area is approximately 300 – 400 feet above mean sea level (MSL). Soils within the project area are mapped as Chewacla and Wehadkee soils (Ch), Mayodan sandy loam, 2 to 6 percent slopes (MfB), Mayodan sandy loam, 6 to 10 percent slopes (MfC), Iredell loam (IrB), Nason silt loam, 10 to 15 percent slopes (NaD), and White Store sandy loam, 6 to 10 percent slopes (WsC) mapping units. The 2014 National Hydric Soils List for Durham County, North Carolina, indicate that two soils (Ch and IrB) listed are hydric soils. Average annual precipitation for Durham County is 46 inches.

The undeveloped portions of the project area include maintained/disturbed and early mid successional mixed pine/hardwood forest terrestrial communities with streams and adjacent wetlands. Forested uplands consist of canopy species such as loblolly pine (*Pinus taeda*), red maple (*Acer rubrum*), sweetgum (*Liquidambar styraciflua*), eastern black walnut (*Juglans nigra*) and white oak (*Quercus alba*). In mesic areas near streams and wetland, species adapted to wetter conditions such as American elm (*Ulmus americana*), redbud (*Cercis canadensis*), and ironwood (*Carpinus caroliniana*) tend to dominate the canopy and sapling layers. Woody vine stratum present include musadine (*Vitis rotundifolia*), eastern poison ivy (*Toxicodendron radicans*), Virginia creeper (*Parthenocissus quinquefolia*), and common greenbrier (*Smilax rotundifolia*).

The project area is located on the east side of North Roxboro Street in Durham, Durham County, North Carolina. General area land use includes single and multi-family residential development to the north and west, undeveloped, forested land to the east, and a single-family residential home and gas station to the south.

A stream and wetland delineation for the site was conducted by the applicants' consultant, SEPI, Inc. in 2019. The jurisdictional boundaries were verified by the Corps on September 19, 2019. Streams on the site are considered to have intermittent or perennial flow regimes and are unnamed tributaries to the Eno River. These streams carry the NC Division of Water Resources (NCDWR) best usage classification of "WS-IV";

NSW.” WS-IV refers to those waters used as sources of water supply for drinking, culinary, or food processing purposes; whereas, WS-I, II or III classification is not feasible. These waters are also protected for Class C uses. WS-IV waters are generally in moderately to highly developed watersheds or Protected Areas. NSW is a supplemental classification intended for waters needing additional nutrient management due to being subject to excessive growth of microscopic or macroscopic vegetation.

The wetlands within the proposed project area are all classified as Riparian, Non-Riverine Wetland, according to the North Carolina Wetland Assessment Method (NCWAM). These on-site features generally have plant assemblages containing trees and shrubs such as red maple, sweetgum, eastern black walnut, and white oak. Soils within these features are primarily clay loam, with a 10YR 2/2 matrix and 10YR 5/8 redoximorphic concentrations. These wetlands display hydrology indicators such as water-stained leaves, oxidized rhizospheres along living roots, surface soil cracks, drainage patterns, and geomorphic position.

Applicant’s Stated Purpose

The purpose of the proposed project, as stated by the applicant, is the following:

The purpose of the proposed project is to replace the existing Northern High School, originally built in 1956, with a new facility.

Project Description

The project description, as stated by the applicant, is the following:

The proposed development will consist of a new high school building, athletic fields, track and stadium, parking areas and stormwater management devices. The entrance at Wellington Drive and US-15/501 is required to be aligned with Wellington to create an intersection which meets NC Department of Transportation and the City of Durham code and design requirements. There are streams and riparian buffers on the site at this location that cannot be avoided as road design and roadway alignment is required to meet public safety standards.

Avoidance and Minimization

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

- Temporary silt fencing, wattles, and dewatering devices will be installed to treat runoff from the work area; all erosion and sedimentation control practices, including the application of silt fences and erosion control matting, will be constructed and maintained according to the standards and specifications of the current North Carolina Erosion and Sediment Control Planning and Design Manual;

- The effects of dredged or fill material may be controlled by selecting discharge methods and disposal sites where the potential for erosion, slumping or leaching of materials into the surrounding aquatic ecosystem will be reduced. These methods include using watershed fencing to delineate approved working limits;
- Discharge effects will also be controlled by containing discharged material properly to prevent point and nonpoint sources of pollution.

Compensatory Mitigation

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

Based on the amount of impacts to Waters of the U.S. from the proposed project, compensatory mitigation will be required. The applicant has not provided a proposed mitigation plan, at this time. Mitigation can be purchased from an approved mitigation bank to offset stream impacts. If no credits are available through an existing mitigation bank, mitigation can also be purchased through North Carolina Department of Environmental Quality's Division of Mitigation Services (NCDMS). Mitigation will be secured once the amount is agreed upon.

Essential Fish Habitat

The Corps' 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:

- 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).

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 may affect, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.

By copy of this public notice, the Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. The determination is made specific for Wedgemussel (*Alasmidonta heterodon*), Smooth coneflower (*Echinacea laevigata*), and Michaux's sumac (*Rhus michauxii*).

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. Unless NCDWR is granted a time review extension, 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 **January 21, 2021** to:

NCDWR Central Office
Attention: Mr. Paul Wojoski, 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):

- 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, January 30, 2021. Comments should be submitted to April R. Norton, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884 extension 57 or April.R.Norton@usace.army.mil.