US Army Corps
Of Engineers
Wilmington District

# PUBLIC NOTICE

Issue Date: January 12, 2022
Comment Deadline: February 14, 2022
Corps Action ID Number: SAW-2021-01244

The Wilmington District, Corps of Engineers (Corps) received an application from Yancey County seeking Department of the Army authorization for 165 linear feet (lf) [(0.019 acres)] of temporary stream impacts (utility crossings); 0.004 acres (ac) of temporary wetland impacts (utility crossings); 4,151 lf (0.445 ac) of permanent stream impacts (site clearing and grading); and 2.464 ac of permanent wetland impacts (site clearing and grading), associated with the Little Leaf Farms project in Micaville, Yancey 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:**
Yancey County
Attn: Lynn Austin
110 Town Square, Room #11
Burnsville, North Carolina 28714

**Agent (if applicable):**
ClearWater Environmental Consultants, Inc.
Attn: Clement Riddle
145 7th Avenue W, Suite B
Hendersonville, North Carolina 28792

**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 site includes a utility corridor and building parcel. From the intersection of U.S. Highway 19 and NC Highway 80 in Micaville, go south on NC Highway 80. The utility corridor follows Highway 80, starting at the Micaville Elementary School to the building parcel. The building parcel is located south of the intersection of Highway 80 and Hickory Springs Road.

| | |
|---|---|
| Project Area (acres): | 25-ac Utility Corridor and 97-ac Building Parcel |
| Nearest Town: | Micaville |
| Nearest Waterway: | Unnamed Tributaries (UTs) Ayles Creek and Ayles Creek |
| River Basin: | Nolichucky (06010108) |
| Latitude and Longitude: | 35.87834, -82.21778 (Building Parcel) |

## Existing Site Conditions

The project site is situated in the Blue Ridge physiographic province and in the Southern Crystalline Ridges and Mountains Ecoregion of North Carolina. Blue Ridge province is a mountainous zone that extends northeast-southwest from southern Pennsylvania to central Alabama. The physiography of Yancey County consists of high, intermediate, and low mountains; floodplains; and low stream terraces. Elevations at the site range from approximately 3,320 feet above mean sea level (msl) within the southern portion of the building parcel, to 2,680 feet msl in the northern portion of the building parcel, and 2,420 feet msl at the north end of the utility corridor.

The proposed building parcel is a mostly undeveloped 97-ac tract of land. A two-story barn is the only structure located on the property. Fallow fields (former pasture) occupy approximately 18 acres of the site. The remainder of the site is comprised of two forested areas. The first is an approximately 3-ac forested area adjacent to Ayles Creek. The second forested area covers approximately 76-ac on the lower portion of the northern slope of Little Celo Mountain. Several old roadbeds, presumably from historic logging operations, are present in the forested mountain side.

Natural habitat communities observed on the building parcel include chestnut-oak forest, mesic rich cove forest, disturbed forested edge, floodplain forest, meadow, and wetlands (mixed low elevation montane seeps, emergent, and scrub-shrub wetlands; montane alluvial forest wetlands, and headwater forest wetlands). These habitats are varied and contain a diverse group of plant species ranging from xeric to hydrophytic species, depending upon elevation, aspect, and landform.

The utility corridor is a mostly rural developed tract along NC Highway 80. Habitat communities present within the utility corridor include maintained road shoulder, disturbed forest edge, and emergent wetland. These habitats are primarily within the road right-or-way and are routinely managed through the use of mechanized mowing and clearing.

The project site adjoins rural tracts of property. The land uses that adjoin the project site are mostly undeveloped forest tracts and developed rural residential properties with some developed commercial and agricultural tracts.

Waters at the project site are part of the French Broad River system and are within the Nolichucky River watershed (HUC 06010108). The streams at the site are UTs of Ayles Creek and Ayles Creek and generally flow toward the north. Ayles Creek exits the project site at the north end of the utility corridor and flows into the South Toe River approximately 0.7 miles downstream of the project site. As designated by the North Carolina Department of Environmental Quality (DEQ) – Division of Water Resources (DWR), streams at the site are classified as fresh water secondary recreation-aquatic life class C and special designated trout waters. There are wetlands located within the project boundary. The majority of these wetlands have been identified as wetland seeps, headwater wetlands, and forested wetlands. Most of the wetlands are abutting associated stream channels. The mapped FEMA 100-year floodplain is located in the utility corridor and in the northern corner of the building parcel. The project boundary contains the following amounts of potential jurisdictional waters of the U.S. (WoUS).

**Summary of Potential Jurisdictional Waters**

| Aquatic Resource | Amount |
|---|---|
| Building Parcel | |
| Stream | 6,430 lf (0.83 ac) |
| Wetland | 2.573 ac |
| Utility Corridor | |
| Stream | 1,495 lf (0.483 ac) |
| Wetland | 0.124 ac |
| Total Project Area | |
| Stream | 7,925 lf (1.313 ac) |
| Wetland | 2.697 ac |

The applicant submitted a request for a jurisdictional determination (JD) for the building parcel in the summer of 2021. The Corps has verified the delineation of jurisdictional waters for this parcel and the issuance of a preliminary JD is pending. The applicant submitted a request for a JD of the utility corridor in December 2021. The field verification of waters in the corridor is to be conducted in early 2022 and issuance of a preliminary JD will follow the completion of the field verification.

ClearWater Environmental Consultants (CEC) conducted a file review of records maintained by the U.S. Fish and Wildlife Service (FWS) and the North Carolina Natural Heritage Program (NHP). The NHP database review provided an inventory of current and historic occurrences of protected species within a mile of the project area. The FWS Information, Planning and Consultation (IPaC) system provided an overall catalogue of federal protected species for the general area of the project site.

**Summary of FWS IPaC Federally Listed Protected Species In the General of the Project Site**

| Common Name | *Scientific Name* | Federal Status |
|---|---|---|
| Bog turtle | *Glyptemys muhlenbergii* | T (S/A) |
| Gray bat | *Myotis grisescens* | E |
| Northern long-eared bat (NLEB) | *Myotis septentrionalis* | T |
| Appalachian elktoe | *Alasmidonta raveneliana* | E |
| Virginia spiraea | *Spiraea virginiana* | E |
| Small whorled pogonia | *Isotria medeoloides* | T |
| Rock gnome lichen | *Gymnoderma lineare* | E |

E - Endangered. A taxon "in danger of extinction throughout all or a significant portion of its range."

T - Threatened. A taxon "likely to become endangered within the foreseeable future throughout all or a significant portion of its range."

S/A – Threatened due to similar appearance.

The NHP indicates three element occurrences (EO) of federally threatened or endangered species within a one-mile radius of the project area. The NHP indicates EOs of the federally endangered species American burying beetle (*Nicrophorus americanus*), Virginia spiraea, and Appalachian elktoe within a one-mile radius of the project area. The EO for the American burying beetle is a very low accuracy occurrence that starts approximately half a mile south of the project in the Black Mountains. The record for this species is historic and the last recorded observation was before 1958. The EO for Virginia spiraea occurs along the South Toe River near the mouth of Ayles Creek, approximately 0.7 miles north of the project area. The record for Virginia spiraea is historic and the specimen was collected in 1898. The nearest EO for Appalachian elktoe is in the South Toe River, approximately 0.7 miles downstream of the northern end of the utility corridor and 0.5 miles downgrade of the southeast portion of the building parcel. Also, the South Toe River is listed as critical habitat for Appalachian elktoe. Two watersheds with known hibernaculum and/or maternity roost for NLEB are located in the vicinity of the project area. One watershed is adjacent to the south of the project area and the other is two miles west of the project area.

CEC conducted a protected species survey and potential habitat assessment of the project area in the summer of 2021. During the survey and assessment CEC observed potentially suitable habitat for Virginia spiraea and potentially suitable summer habitat for NLEB. A survey for Virginia spiraea within potentially suitable habitat was conducted during the FWS designated optimal survey window for this species. The survey did not find any individuals of the s*piraea* genus within the project area. Surveys for the presence and/or absence of bat species within the project area has not been conducted as of the date of this notice.

CEC reviewed the National Park Service National Register of Historic Places (NRHP) GIS Public Dataset and the North Carolina State Historic Preservation Office (SHPO) HPOWEB GIS Web Service. This review indicates six historic properties located within an approximate 0.5-mile radius of the project site. The Micaville Elementary School (YC0014), Ben and Pearl Blalock House (YC0142), and a log cabin (YC0079) are adjacent to the utility corridor. The Micaville Historic District (YC0015), R.C. and Zora Hise House (YC0005), and the Abernathy-Anglin-Gouge House (YC0133, demolished) are located 0.15-0.44 miles northwest to northeast of the project area. The applicant is conducting a cultural resources study of the building parcel and will submit this study to the Corps and SHPO for review. Also, The National Park Service (NPS) boundary for the Blue Ridge Parkway (BRP) is 5.5-6.5 miles southeast of the project area. Based on topography, the proposed development of the building parcel may be within the parkway's viewshed.

**Applicant's Stated Purpose**

The project purpose is to develop the site for large-scale greenhouse production of leafy greens.

**Project Description**

Little Leaf Farms (LLF) proposes to open a new greenhouse facility in Micaville, Yancey County, North Carolina. LLF is seeking to expand its current New England based operations into North Carolina. Their goal is to grow and harvest leafy greens within a one-day drive of their consumer market. LLF products are currently in over 2,000 grocery stores in the northeastern U.S.

Yancey County is close to major consumer cities in the southeast that are currently outside of LLF current operation range. To grow leafy greens in a greenhouse, hot climates must be avoided. Cool temperatures, ample daylight, and abundant rainfall are ideal conditions for the proposed greenhouse complex. To obtain cool climates in the southeastern U.S., elevation is critical. Therefore, Yancey County in the mountains of western North Carolina was selected for this project. The County has a relatively stable and cool year-round climate with an ample amount of sun and rain; recently improved major highways for direct ground transportation; and large tracts of land for sale in areas in need of local high-quality employment opportunities. The greater Burnsville area is a designated economic opportunity zone.

The greenhouse complex would include two approximately 8-ac greenhouses, two 3-megawatt natural gas boiler systems, two 2,000,000-gallon rainwater collection basins to capture roof runoff, two 100,000-gallon tanks for liquid CO2 distribution, and blackout shutters for nighttime growing. The greenhouses will be constructed of steel and aluminum framing and will be topped with glass panels. Approximately 100 parking spaces will be constructed. Once fully built, the proposed operation would potentially employ 95 people.

Numerous features of the proposed greenhouse complex are considered sustainable, such as the rainwater collection system, low energy grow lighting automated by sensors, composting of waste plant material (primarily roots), 100% recycled plastic packaging, and recycling of growing media. The leafy greens production at the proposed facility will be organic and native insect predators will be used in lieu of harsh chemical pesticides.

The greenhouse complex will limit excess light pollution using strategic and minimal exterior lighting in combination with blackout shades on the interior of the greenhouse that will automatically block grow lights during dark hours. To limit lighting impacts, exterior lighting will be limited to that necessary for safety and will be fully shielded and directed downward. LED lighting will be used to the maximum extent practicable.

The proposed project at the building parcel includes the construction two greenhouses (totaling 16-ac), rainwater collection systems, heating systems, parking areas, truck accesses, and a stormwater basin. All of these features, excluding the stormwater basin, are proposed to be constructed on a single level building pad, approximately 25 acres in size. To obtain 25 acres of level building pad, the limits of disturbance (LOD) for grading is approximately 40 acres.

The project would include stream and wetland impacts associated with the construction of the new facility. Stormwater from the watershed above the proposed LOD will be piped around the perimeter of the proposed facility and empty into an undisturbed reach of a UT Ayles Creek. The impacts to waters associated with the building parcel are summarized in the table below.

**Summary of Proposed Impacts to WoUS at Building Parcel**

| **Stream Impacts** | | | |
|---|---|---|---|
| **Impact (all permanent impacts)** | **Stream (lf)** | **Stream (ac)** | **Purpose** |
| S1 | 782 | 0.057 | Grading for building pad |
| S2 | 920 | 0.111 | Grading for building pad |
| S3 | 544 | 0.056 | Grading for building pad |
| S4 | 961 | 0.141 | Grading for building pad |
| S5 | 122 | 0.017 | Grading for building pad |
| S6 | 680 | 0.041 | Grading for building pad |
| S7 | 80 | 0.004 | Grading for building pad |
| S8 | 62 | 0.018 | Grading for building pad |
| **Totals** | **4,151** | **0.445** | |

| Wetland Impacts | | |
|---|---|---|
| **Impacts (all impacts permanent)** | **Wetland (ac)** | **Purpose** |
| W1 | 2.055 | Grading for building pad |
| W2 | 0.021 | Grading for building pad |
| W3 | 0.003 | Grading for building pad |
| W4 | 0.243 | Grading for building pad |
| W5 | 0.005 | Grading for building pad |
| W6 | 0.014 | Grading for building pad |
| W7 | 0.015 | Grading for building pad |
| W8 | 0.046 | Grading for building pad |
| W9 | 0.011 | Grading for building pad |
| W10 | 0.034 | Grading for building pad |
| W11 | 0.01 | Grading for building pad |
| W12 | 0.007 | Grading for building pad |
| **Totals** | **2.464** | |

Public utility upgrades are needed to support facilities to be constructed at the building parcel. The impacts to waters associated with the utility corridor are summarized in the table below.

**Summary of Proposed Impacts to WoUS for Utility Corridor**

| **Utility** | **Distance to Existing Tie-in from Building Parcel** | **Impact (all impacts are temporary)** | **Stream** | | **Wetland** | **Purpose / Comments** |
|---|---|---|---|---|---|---|
| | | | **lf** | **ac** | **ac** | |
| Water | 14,400 LF | S9 | 18 | 0.004 | - | Open cut installation |
| | | S10 | 11 | 0.002 | - | |
| | | S11 | 9 | 0.002 | - | |
| | | S12 | 3 | 0.001 | - | |
| | | S13 | 11 | 0.001 | - | |
| | | S14 | 11 | 0.001 | - | |
| | | S15 | 11 | 0.001 | - | |
| | | S16 | 48 | 0.003 | - | |
| | | S18 | 11 | 0.001 | - | |
| | | S19 | 24 | 0.002 | - | |
| | | W13 | - | - | 0.004 | |
| Gas | 1,650 LF | - | 0 | 0 | 0 | Entirely in upland road shoulder – no impacts |
| Sewer | 900 LF | S17 | 8 | 0.001 | 0 | Open cut installation |
| Electric | 1,350 LF (relocation) | - | 0 | 0 | 0 | New line and substation in uplands – no impacts |
| **Totals** | | | **165** | **0.019** | **0.004** | |

A new water line will be installed from an existing municipal water line tie-in to the building parcel. The proposed route will run south from Micaville Elementary School, along NC Highway 80 for approximately two miles. The proposed alignment will run primarily along the east side of the Highway 80 and be within the road right-of-way. A second section of new water line, approximately 2,550 linear feet, is proposed for installation along the Hickory Springs Road. This segment will run mostly along the south side of Hickory Springs Road and it will connect an existing adjacent industrial facility to the new proposed water line

An existing municipal sewer utility is present along Hickory Springs Road, along the northern boundary of the building parcel. To bring sewer to the site, an extension is proposed from the existing sewer line to the building pad.

An existing natural gas utility tie-in is located along Highway 80 about 500 feet north of the building parcel. An extension will run along the shoulder of the highway and connect to the building parcel. No wetland or stream impacts proposed for this connection.

Electric is already located at the building parcel but intersects the proposed building pad location. The section of overhead electric utility on site is proposed to be rerouted closer to Highway 80. Additionally, a substation will be added in the southeast corner of the building parcel. Immediately east of the proposed substation, the overhead utility line will be connected back to the original alignment before leaving the building parcel.

**Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment. Pre-project site planning was conducted to delineate, and field verify jurisdictional WoUS within the proposed project area. These features were used to select a viable alternative to avoid and minimize impacts to aquatic resources. In preparing the project plans, the applicant considered a variety of constraints, including impacts to wetlands and other WoUS.

All stream impacts within the project area will be conducted in-the-dry to minimize mobilization of sediment downstream. Because the entire headwaters of the main valley at the building parcel are proposed for impact, a french drain system will be installed allowing water to percolate into the drain and continue to downstream waters.

The french drain system will convey subsurface water flows from the impacted streams and wetlands at the building pad area. All erosion control devices will be installed prior to conducting these impacts. The drain system will be installed in-the-dry starting at the downstream end of the impact area. Sandbags, or similar structures, will be installed in the channel to isolate a dry work area. Stream flows from upstream will be diverted into a bypass culvert around the work area. Installation of the french drain requires filling the stream bed with a drainpipe surrounded by washed stone and filter fabric and does not involve dirt to be placed in the running water of the stream bed. This process will be repeated, moving upstream, one section at a time. The stream origin areas will need to

be impacted in-the-wet due to a lack of bypass options. The impact sections near the origin will be made as short as practicable to minimize sediment mobilization. No construction drainage or discharge will be directed towards the french drain. The drain system will be installed prior to adding fill over streams and wetlands.

Eleven temporary stream crossings and one temporary wetland crossing are proposed for the sewer and waterline extension. Stream crossings will be conducted in-the-dry. The stream crossings involve open cutting of the stream bed for pipe installation, followed by stream bed and bank stabilization. The wetland crossing involves open cutting for pipe installation, following by backfilling hydric soils to original contours and revegetating the wetland area with a native wetland seed mix.

The project as proposed avoids approximately 2,279 linear feet (35%) of stream length and 0.39 acres (46%) of stream bed at the building parcel. The project avoids approximately 0.109 acres (4%) of jurisdictional wetlands at the building parcel. A summary of the avoidance and minimization for the building parcel is as follows.

| Aquatic Resources | On-Site Totals | Proposed Impacts | Percent Avoided and Minimized |
|---|---|---|---|
| Stream | 6,430 lf (0.83 ac) | 4,151 lf (0.455 ac) | 35% (46%) |
| Wetland | 2.573 ac | 2.464 ac | 4% |

The project as proposed avoids approximately 1,330 linear feet (89%) of stream length and 0.464 acres (96%) of stream bed in the utility corridor. The project avoids approximately 0.12 acres (98%) of jurisdictional wetlands in the utility corridor. A summary of the avoidance and minimization for the utility corridor is as follows.

| Aquatic Resources | On-Site Totals | Proposed Impacts | Percent Avoided and Minimized |
|---|---|---|---|
| Stream | 1,495 lf (0.483 ac) | 165 lf (0.019 ac) | 89% (96%) |
| Wetland | 0.124 ac | 0.004 ac | 98% |

**Compensatory Mitigation**

The proposed project does involve temporary and permanent impacts to jurisdictional WoUS. The temporary impacts to streams and wetlands for utility crossings will not result in functional losses to the aquatic environment within these jurisdictional resources and will not result in a permanent loss of jurisdictional WoUS.

Upon completion and implementation of practical avoidance and minimization efforts, 4,151 lf of stream channel and 2.464 acres of wetlands impacts associated with the grading activities at building parcel are unavoidable. These impacts result in the permanent loss of 4,151 lf of streams and 2.464 acres of wetlands.

The applicant proposes to mitigate for 4,151 lf of proposed stream impacts and 2.464-ac of proposed wetland impacts through NC Division of Mitigation Services (DMS). By letter dated December 14, 2021, DMS has indicated they are willing to accept payment for impacts associated with this project. The applicant proposes a mixed mitigation credit/ratio based upon the data results of NC Stream Assessment Method (NCSAM) and Wetland Assessment Method (NCWAM) for the impacted stream and wetlands at the building parcel. The following is a summary of the applicants proposed mitigation credit/ratios.

**Summary of Proposed Stream Mitigation Credits/Ratios**

| Impact Number | Stream Name | Length (lf) | Type | NC SAM Rating | Proposed Mitigation Ratio | Total Credits |
|---|---|---|---|---|---|---|
| S1 | SE-1 | 1,060 | Perennial | High | 2 | 2,120 |
| S1/S6 | SE-2 | 402 | Perennial | Medium | 1.5 | 603 |
| S2 | SF | 920 | Perennial | High | 2 | 1,840 |
| S4/S8 | SG-1 | 340 | Perennial | High | 2 | 680 |
| S4 | SG-2 | 683 | Perennial | High | 2 | 1,366 |
| S3 | SH | 544 | Perennial | High | 2 | 1,088 |
| S5 | SJ | 122 | Intermittent | Medium | 1 | 122 |
| S7 | SK | 80 | Perennial | High | 2 | 160 |
| | **Total** | **4,151** | | | **Total** | **7,979** |

**Summary of Proposed Wetland Mitigation Credits/Ratios**

| Impact Number | Wetland Name | Area (ac) | Type | NC WAM Rating | Proposed Mitigation Ratio | Total Credits |
|---|---|---|---|---|---|---|
| W1 | WC | 0.084 | Bottomland Hardwood Forest | Medium | 2 | 0.168 |
| W1 | WD | 0.07 | Bottomland Hardwood Forest | Medium | 2 | 0.14 |
| W1 | WE-1 | 1.24 | Seep | Medium | 1 | 1.24 |
| W1 | WE-2 | 0.358 | Headwater Forest | High | 2 | 0.716 |
| W1 | WF-1 | 0.138 | Bottomland Hardwood Forest | Medium | 2 | 0.276 |
| W1 | WF-2 | 0.149 | Headwater Forest | High | 2 | 0.298 |
| W7 | WG | 0.015 | Headwater Forest | High | 2 | 0.03 |
| W8 | WH | 0.046 | Headwater Forest | High | 2 | 0.092 |
| W9 | WJ | 0.011 | Headwater Forest | High | 2 | 0.022 |
| W12 | WK | 0.007 | Non-tidal Freshwater Marsh | Low | 1 | 0.007 |
| W10 | WL | 0.033 | Headwater Forest | High | 2 | 0.066 |
| W2 | WM | 0.021 | Headwater Forest | High | 2 | 0.042 |
| W10 | WN | 0.001 | Headwater Forest | High | 2 | 0.002 |
| W6 | WP | 0.014 | Headwater Forest | High | 2 | 0.028 |
| W4 | WQ | 0.236 | Headwater Forest | High | 2 | 0.472 |
| W5 | WR | 0.005 | Headwater Forest | High | 2 | 0.01 |

| | | | | | | |
|---|---|---|---|---|---|---|
| W3 | WS | 0.003 | Seep | High | 2 | 0.006 |
| W4 | WT | 0.005 | Headwater Forest | High | 2 | 0.01 |
| W11 | WU | 0.01 | Headwater Forest | Medium | 1.5 | 0.015 |
| W1 | WV | 0.007 | Headwater Forest | Low | 1.5 | 0.011 |
| W1 | WW | 0.002 | Headwater Forest | Low | 1.5 | 0.003 |
| W4 | WX | 0.002 | Headwater Forest | High | 2 | 0.004 |
| W1 | WY | 0.006 | Headwater Forest | Low | 1.5 | 0.009 |
| | **Total** | **2.463** | | | **Total** | **3.667** |

The Corps will base the required mitigation ratio and credits based upon review of the submitted data, comments received to the public notice, a site evaluation of the aquatic resources, and information submitted by FWS, DWR, and WRC.

**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 affect 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 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.

SHPO and applicable tribal historic preservation offices (THPO) will be notified via public notice about the project and will be given the opportunity to comment on the project and its potential effects on cultural resources. 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' permit area.

The NPS will be notified via public notice about the project and will be given the opportunity to comment on the project and its potential effects on the BRP. The District Engineer's final effect determination will be based upon submitted comments to this public notice from NPS; and further coordination with the NPS, as appropriate and required; and with full consideration given to the proposed undertaking's potential effects on the BRP viewshed.

**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.

☒ 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 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.

The FWS will be notified via public notice about the project and will be given the opportunity to comment on the project and its potential effects on threatened and endangered species. The District Engineer's final effects determination will be based upon submitted comments to this public notice from FWS; and further coordination with the FWS, as appropriate and required; and with full consideration given to the proposed undertaking's potential direct and indirect effects on federally threatened or endangered listed species and/or their formally designated critical habitat within the Corps' permit area.

**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 120 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 February 14, 2022 to:

NCDWR Central Office
Attention: Mr. Paul Wojowski, 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 5 PM, February 14, 2022. Comments should be submitted to:

Mr. David Brown
USACE Wilmington District
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, North Carolina, 28801-5006