



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: Dec. 6, 2022
Comment Deadline: Jan. 6, 2023
Corps Action ID Number: SAW- 2021-02163

The Wilmington District, Corps of Engineers (Corps) received an application from the Town of Woodfin seeking Department of the Army authorization to construct a recreational whitewater wave and adjacent park improvements along the French Broad River in Woodfin, in Buncombe 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: Town of Woodfin
Ms. Adrienne Isenhower, Planning Director
90 Elk Mountain Road
Woodfin, NC 28804

AGENT (if applicable): Equinox Environmental
Mr. Owen Carson
37 Haywood Street, Suite 100
Asheville, NC 28801

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

The park improvements include two river access points. The south access (P2) will be constructed first and includes boulder toe/bank stabilization. This section will be surrounded by a coffer dam and dewatered. The north access (P3) will be a precast boat ramp that will be placed. This will not be done in the dry, however a turbidity curtain will be used to protect the river from construction activities on the bank. A tributary to the French Broad River will also be impacted by a road crossing (P1). This crossing will be complete as part of other land-based activities and will be constructed in the dry using a pump around with dykes. The crossing will be an elliptical metal culvert that will be partially buried. Once the culvert is installed, the pump around and temporary dykes will be removed.

Construction of the wave and bypass channel will total 3 acres of impact to the French Broad River. Impacts will be both temporary and permanent as shown in Table 2 below. Temporary impacts are necessary to construct the wave and bypass feature as well as bank tie-ins. These impacts will include a temporary low-flow road, coffer dams and dewatering zones to allow construction of the wave feature in the dry. The construction of the wave and bypass will be done in three sections. The project will commence with the lowering of the east bank to gain access for the wave and bypass construction. Once a temporary construction access is installed down to the east bank and where the abandoned railroad piles meet the east bank, a temporary low-flow road will be constructed along the existing remnants of the old railroad crossing. The low-flow road will be constructed by placing culverts between the abandoned railroad piles and filling over the culverts and between the piles with cobble. This road will be used to carry construction equipment and material to the first section of construction, the center of the wave, including the island separating the wave from the bypass. Once the road is complete, a coffer dam will be constructed surrounding this section on all sides and it will be dewatered. Once the construction of the first (center) section is complete, the coffer dam on the upstream side of this section will be relocated to the downstream side of the temporary low-flow road as well as portions of the upstream side of the road that may not have coffer dam. At this point, the road should have coffer dam on either side of it. The road will then be removed. While removing the road, the contractor will also pull out the abandoned bridge pilings. These pilings are to be removed for the safety of river users. Note, this area of road and piling removal will not be dewatered, however cofferdams will limit siltation and turbidity migrating downstream. The coffer dams will be removed as the road gets removed, backing back to the east bank.

Table 2: Wave and Bypass Impact Table

Impact	Type/Reason	Permanent/No Loss (lf/acreage)	Permanent/Loss of Waters (acreage)	Temporary (acreage)	Total	Cut (cy)	Fill (cy)
W1	Wave & Bypass Fill	0.760 ac (33,123 sf)	0.027 acre (1,185 sf)*	1.932 ac (84,161 sf)**	2.719 ac	396	4,079

W2	Construction Access	-----	-----	0.262 ac (11,408 sf)	0.262 ac	521***	-----
W3	Boulder Toe River Left	161 lf / 0.019 ac (842 sf)	-----	-----	161 lf / 0.019 ac	-----	91
Total		161 lf / 0.779 ac	0.027 acre	2.194 acre	3 acres	917	4,170

*0.027 acre of open water will be permanently filled/considered a loss of water due to construction of bypass channel 'island' and elevated tie -ins on bank that will be permanently above Ordinary High Water Mark Elevation of French Broad River (see Impact Summary Map).

**Dewatering will occur in phases through construction of 3 cofferdams (see attached plans).

***Once construction is completed, pre-existing piers will be removed/excavated.

The second section of the wave to be constructed will be on the east side. This includes from the center of the wave feature to the east bank tie in and the east bank boulder toe. This section will be surrounded with coffer dam and dewatered. The portion of coffer dam furthest from the bank will be shifted coffer dam from the previous section of work, while the portions of coffer dam closer to the bank will be set from the bank and a built-up peninsula in the footprint of the wave. Once this portion of the wave is complete, all construction material temporary measures will be removed wrapping up with the coffer dams.

The third section will be built from the west bank and will allow for fish passage. Cofferdams will be installed to surround the limits of work which will be from the island to the west bank tie-in, including boulder toe and bank stabilization. This section will be dewatered, and construction of the bypass will be done in the dry. Once construction is complete, all construction equipment and temporary measures will be removed finishing with the coffer dam.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Avoidance and minimization will be achieved through work in the dry and implementation of proper sediment and erosion control techniques. Construction areas will also be stabilized/replanted with native vegetation to establish a buffer for any potential runoff. For the wave feature, avoidance and minimization efforts will occur from construction of the coffer dams and working in the dry.

Compensatory Mitigation

Due to minimal permanent losses to waters of the U.S. (0.057 acre), no compensatory mitigation is being proposed.

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.

- This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact (CHOOSE ALL THAT APPLY- marine substrate, estuarine substrate, water columns, emergent wetlands, submerged aquatic vegetation, artificial reefs, hardbottoms) (see project description) utilized by various life stages of the following species: (CHOOSE ALL THAT APPLY – coastal migratory pelagics, corals, golden crab, shrimp, snapper grouper, spiny lobster, Atlantic highly migratory species). Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.
- The Corps will consult under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.
- The Corps has initiated consultation the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

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.
- 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.

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 applicant did not provide or satisfy all the elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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 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 the date of this public notice. 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 Feb. 6, 2023 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 5pm, Jan. 6, 2023. Comments should be submitted to Ms. Amanda Jones Fuemmeler, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271 - 7980 ext. 4225. Comments may also be submitted to AshevilleNCREG@usace.army.mil

