



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: January 5, 2023  
Comment Deadline: February 4, 2023, 2023  
Corps Action ID Number: SAW-2008-01015

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Bill Early (Brunswick Business & Industry Development) seeking Department of the Army authorization to impact and fill 11.7 acres of 404 wetlands and 1.58 acres of Jurisdictional Open Water Ditches in the Town of Northwest, Brunswick 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>

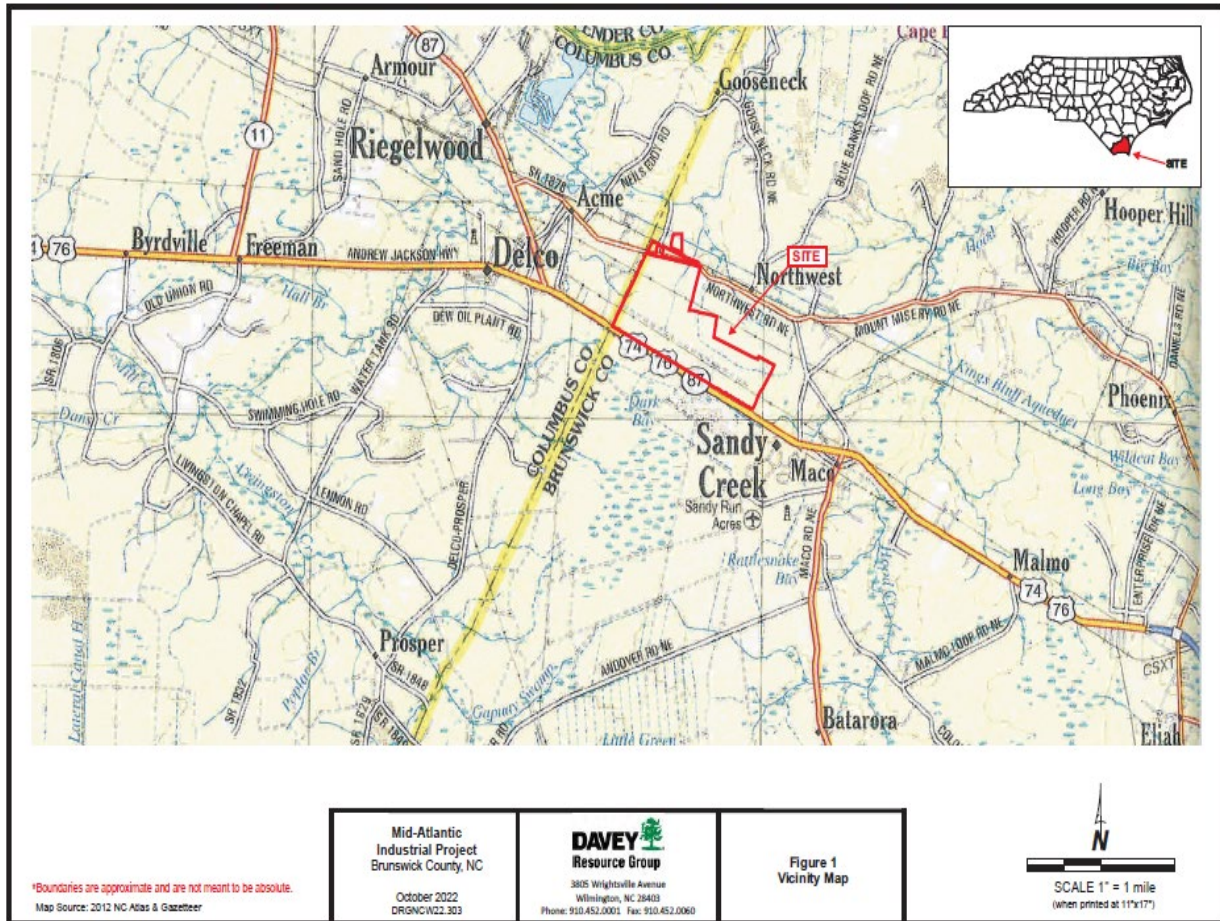
**Applicant:** Mr. Bill Early  
Brunswick Business & Industry Development  
1175 Turlington Avenue, Suite 202  
Leland, NC 28451

**AGENT (if applicable):** Ms. Kim Williams  
Davey Resources Group, Inc.  
3805 Wrightsville Avenue, Suite 15  
Wilmington, North Carolina 28403

## 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)



**Project Vicinity Map (Figure 1)**

## Location

The project (Mid Atlantic Industrial Park) is located off Highway 74/76 in the Town of Northwest, Brunswick County, NC. (Parcel Tax ID: 01400001)

Project Area (acres): 1,141 acres

Nearest Town: Northwest

River Basin: Cape Fear

Watershed Hydrologic Unit Code: 03030005

Nearest Waterway: Bear Creek

Latitude and Longitude: 34.305932 N, -78.179067 W

## Existing Site Conditions

The 1,141-acre project site is located on US Highway 74/76 in Northwest, Brunswick County, North Carolina and just east of the Columbus County line (Figures 1). Northwest Road NE (State Route 1419) bounds the project area to the north. An existing 8-inch

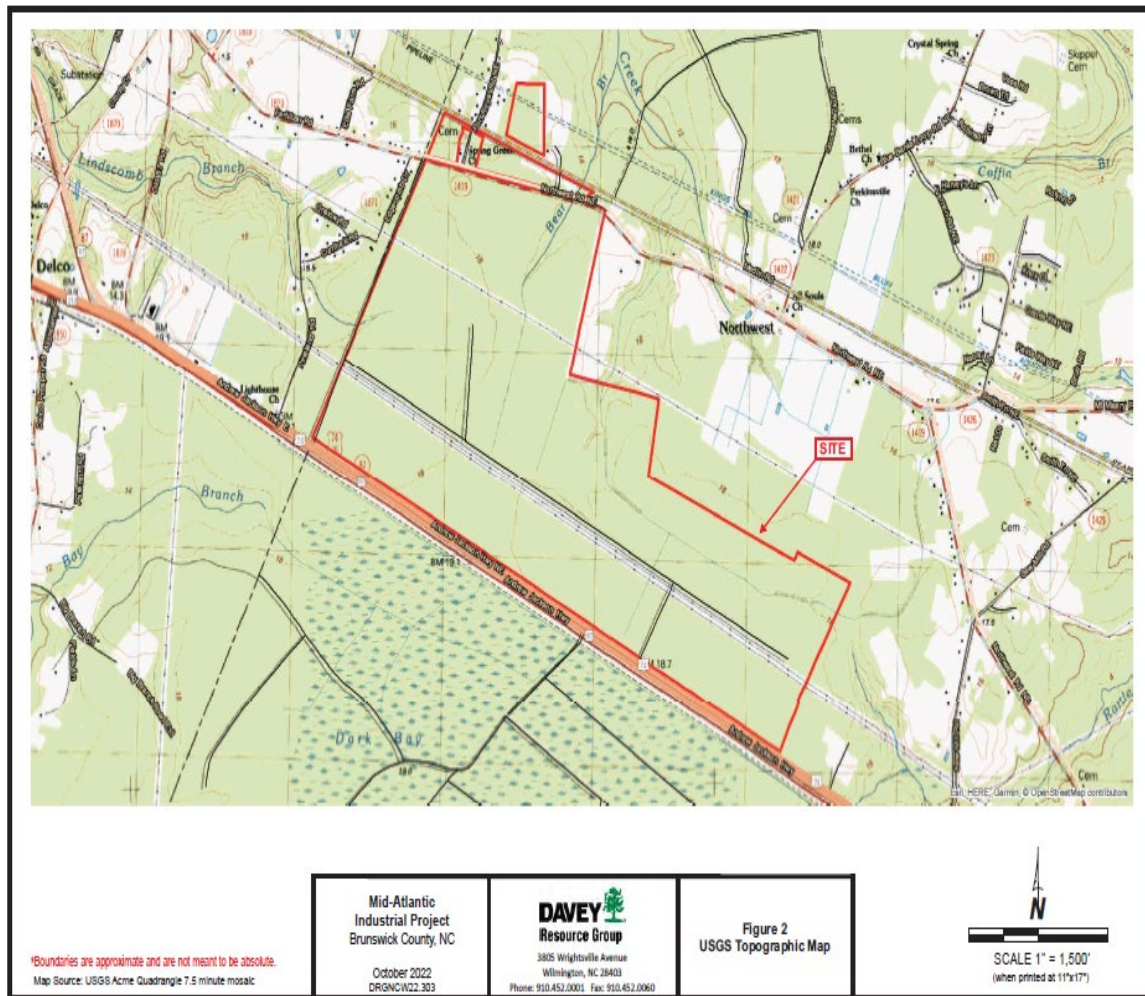
water main is located within the Northwest Road right-of-way (ROW) at this location. A CSX rail line is located just north of the project area. This rail line provides direct access to the North Carolina State Port at Wilmington (located approximately 18 miles to the east). A Piedmont Natural Gas line is co-located adjacent to the rail line. An 8-inch sanitary sewer force main is located within the northern ROW of US Highway 74/76 (on the southern side of the project). Existing Duke transmission lines transect the property and can provide substantial energy needs to the future end-user. A 115k transmission line is located within the northern portion of the site. Duke Energy has agreed to relocate this 115k line. Two additional lines (115k and 230k) are located within a 175-ft easement further south on the property (located between the proposed manufacturing plant and warehouse facilities). These transmission lines will remain in place, and the 115k line to the north will be relocated and co-located with these lines.

The tract has historically been utilized for timber production, and most of the site currently supports a canopy of loblolly pines (*Pinus taeda*) in stands of varying ages. Smaller clusters of longleaf pines (*P. palustris*) are located in the south-central part of the site. Several dirt roads provide access throughout the property. As indicated above, there are existing overhead transmission lines that transect the property. These utility corridors are mowed and support goldenrod, dog fennel, and other herbaceous species.

The site has been harvested several times over the last 24 years, with clear-cutting occurring in different parts of the tract in 1998, 2005, and 2006. Additional thinning of stands occurred in 2010 and early 2018. More mature pine stands are located in the southcentral, central, and eastern portions of the property. These areas contain pine trees that are between 6" and 18" DBH. The older pines (greater than 12" DBH) are not very common. Like many other sections of the tract, this area supports a dense understory of red maple (*Acer rubrum*) and sweetgum (*Liquidambar styraciflua*) shrubs and trees. More recently harvested areas of the tract support loblolly pines that are 4" to 8" diameter at breast height (DBH). These areas exhibit a moderate to thick shrub layer of red maple, sweetgum, and loblolly pine.

Based on the topographic map for this area (see Figure 2), the 54.1-acres of 404 wetlands on site flow to Bear Creek, which runs along the northern property boundary. Wetlands within the site can be characterized as headwater wetlands, hardwood flats, and pine flats. They are densely vegetated and support a canopy of loblolly pine and/or red maple and sweetgum trees. Additionally, a thick shrub layer of fetterbush (*Lyonia lucida*), gallberry (*Ilex glabra*), and pine is present. Several forestry and roadside ditches transect the site. These ditches vary in size and flow regime but are generally 3- to 4-ft deep with low flow. As discussed further below, several of the ditches have been identified as jurisdictional Relatively Permanent Waters (RPWs) (non-stream). The banks of on-site ditches are stable and are densely vegetated.

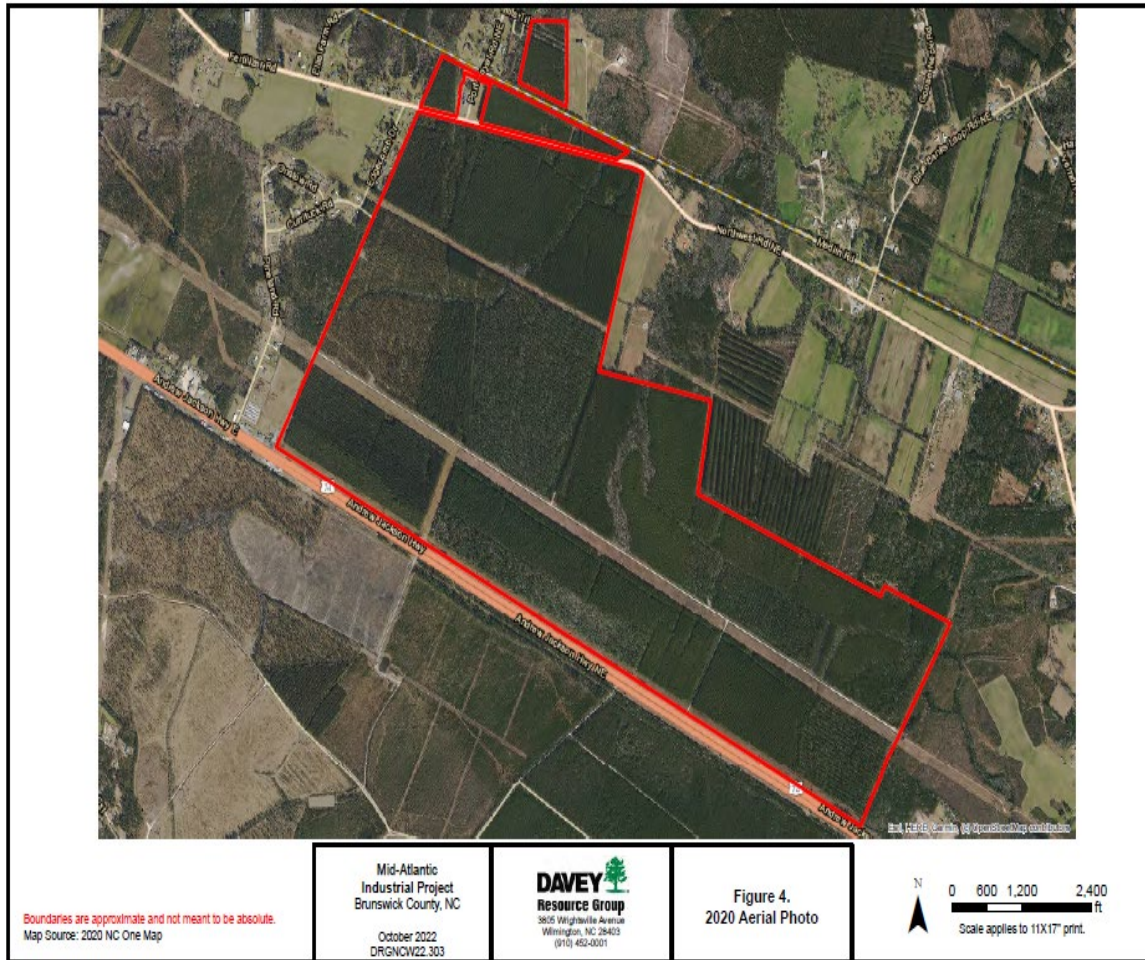




**Topographic map (Figure 2)**

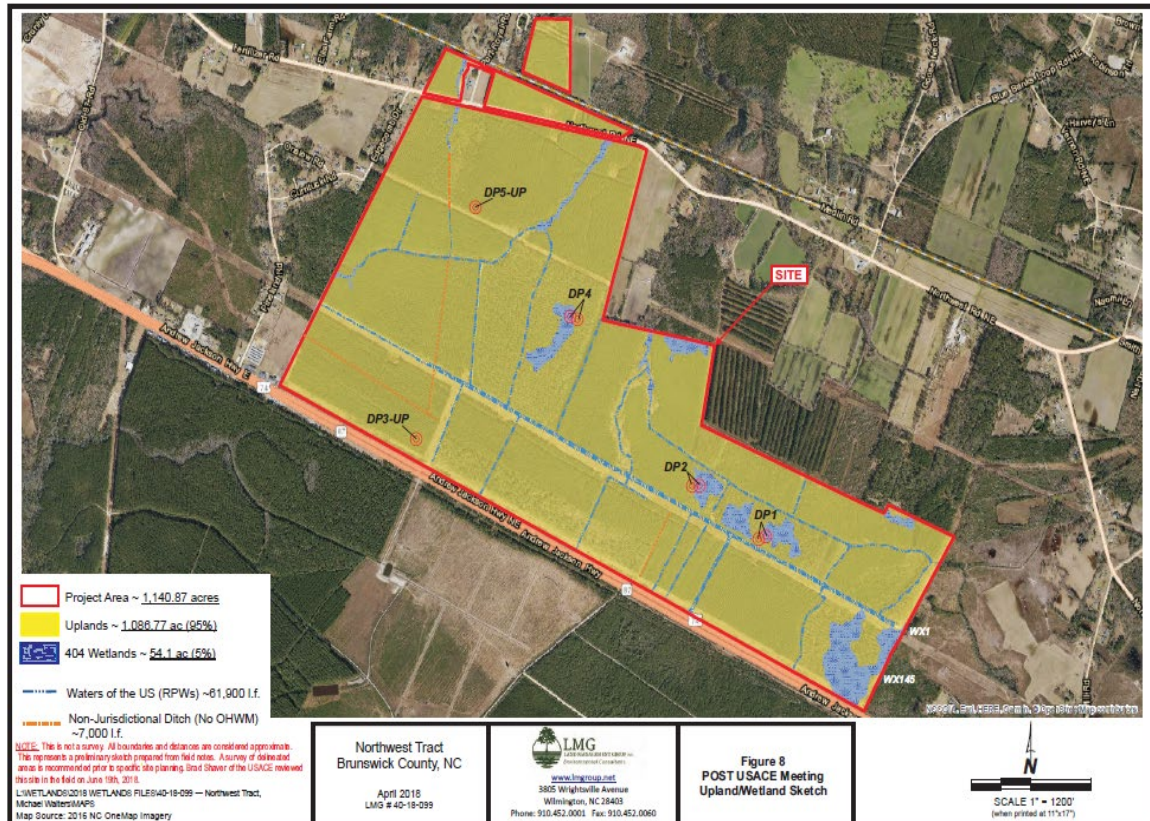
The most recent wetland delineation of the tract was performed by Land Management Group, Inc. (now Davey Resource Group, Inc.) and was approved by the U.S. Army Corps of Engineers in July of 2018. The site contains approximately 54.1 acres of wetlands, 11.7 miles of RPWs, and 1.3 miles of non-jurisdictional ditches (see figure 4). The wetlands and RPWs tie into Bear Branch off-site. Bear Branch is a first-order tributary of the Cape Fear River and is classified as a Class C; Sw waterbody by the NC Division of Water Resources. The C classification is given to waters protected for secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, agriculture and other uses suitable for Class C. 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. There are no restrictions on watershed development or types of discharges. The Sw classification stands for Swamp Waters and is a supplemental classification intended to recognize those waters which have low velocities and other natural characteristics which are different from adjacent streams.

According to the Brunswick County Soil Survey, the site is predominantly Woodington fine sandy loam (W0), with some Foreston Loamy Fine Sand (Fo), Rains fine Sandy loam (Ra), Lynchburg fine sandy loam (Ly), Goldsboro fine sandy loam (GoA), Pantego mucky loam (Pn) and Baymeade fine sand (BaB).



Current existing site (Figure 3)





**Wetland Delineation Map (Figure 4)**

## Applicant's Stated Purpose

The applicant's purpose for the project is to construct an EV battery manufacturing facility and supporting suppliers within the Mid Atlantic Industrial Park, and by doing so to provide significant benefits to Brunswick County and the region. It is anticipated that the project will generate between 3,000 to 7,000 new jobs.

## Project Description

The proposed project will discharge fill material into 11.7 acres of wetlands and 1.58 acres of Jurisdictional Open Water Ditches for the construction and development of a 763-acre EV battery manufacturing facility and other buildings intended for use by suppliers to the EV battery industry. The EV battery manufacturing facility will be located in the northwestern part of the site and will be made up of thirteen separate buildings (total of 5,776,300 sf) with parking and access corridors to be planned between buildings. Access to the site will be provided from Highway 74/76. A spine road will run along the western project boundary to provide access throughout the tract. Rail access will be provided from the CSX Railroad, which is currently located just north of the site. The rail will extend into the central part of the tract. Two separate parking areas will be located in the northwestern and southwestern portions of the site. (see figures 5, 6 & 7)



Figure 5 Project layout & Design



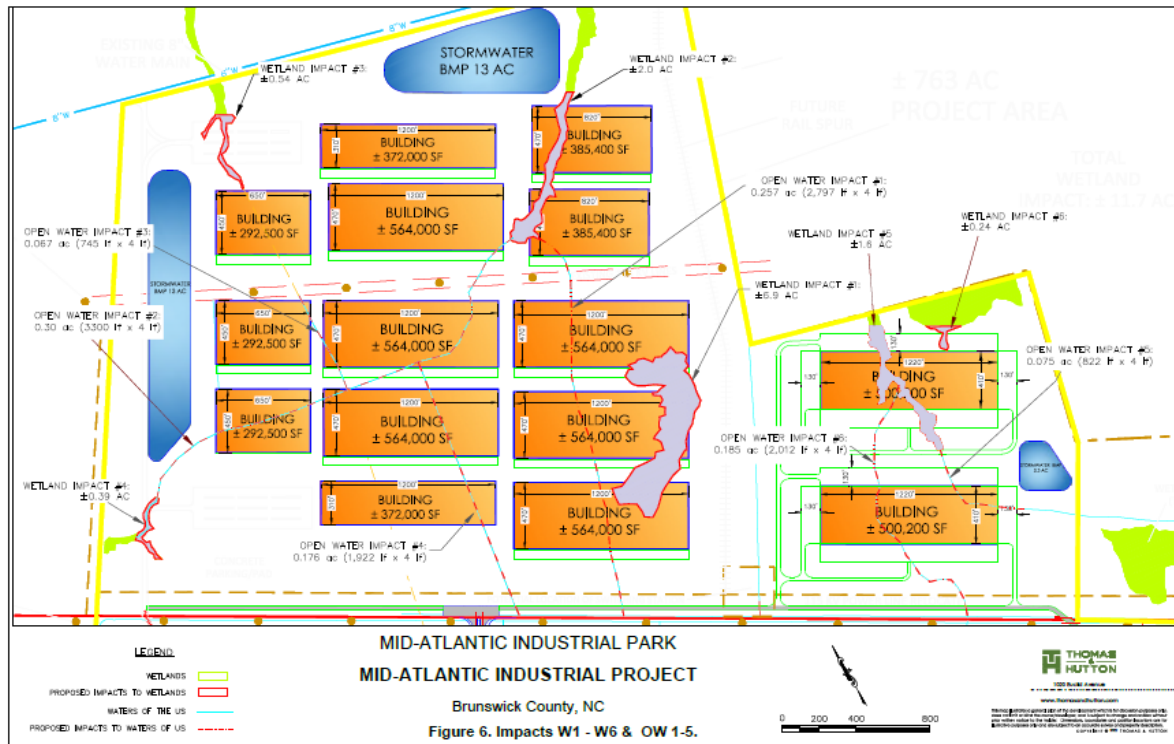


Figure 6 Project Design

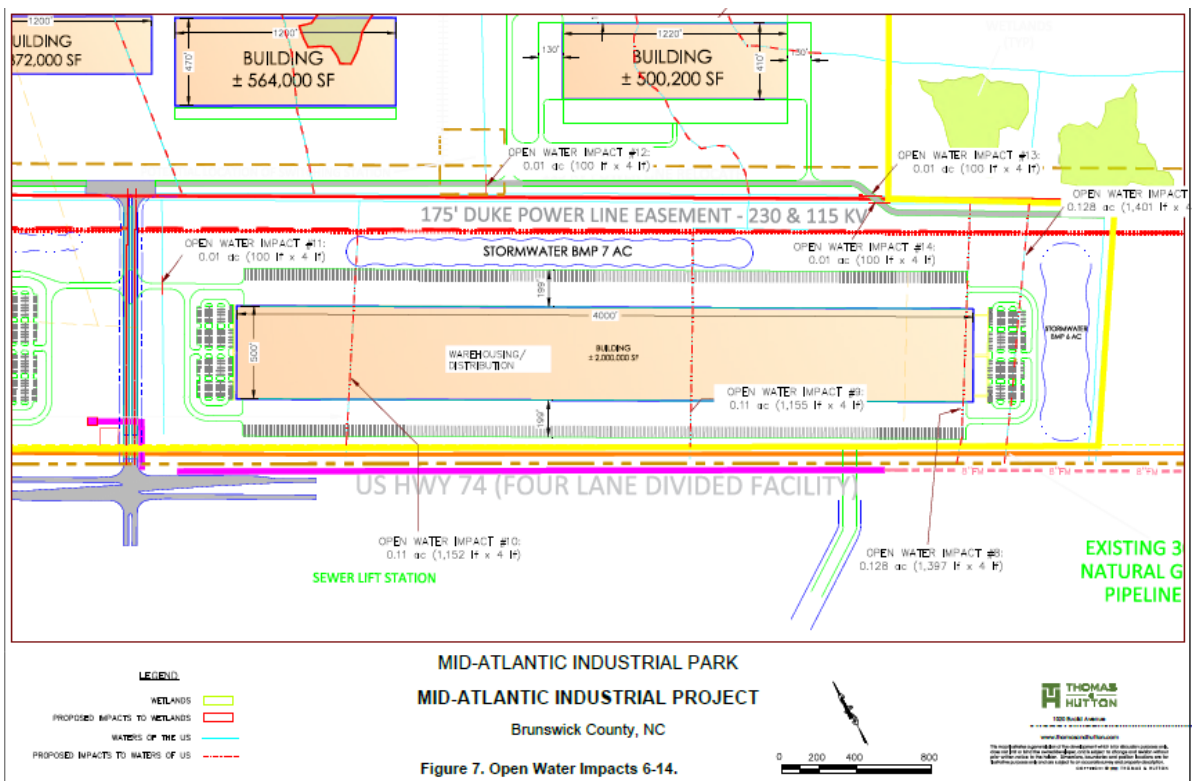


Figure 7 Project Design



## Avoidance and Minimization

Alternative analysis was performed and reviewed for this project. The applicant evaluated several off-site and on-site alternatives and determined that the preferred project is the least environmentally damaging yet practicable alternative. The applicant proposes to purchase wetland mitigation credits from the Lower Cape Fear Umbrella Mitigation Bank (LCFUMB), which is located within the same approved service area as the project is. There is no proposed mitigation for the impacts to the Jurisdictional Open Water Ditch.

Minimization efforts included only impacting 11.7 acres of the existing 54.1-acre wetlands onsite. Avoidance and minimization efforts were hindered by the large footprint and type of manufacturing that will take place at the facility. Separate buildings and workspaces must be provided for a clean and safe manufacturing process to avoid product contamination and safety hazards. The project was designed to impact the least amount of wetlands and Waters of the US on the 1,141-acre 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 will not adversely impact 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, not likely to adversely 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 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. 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, NC 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by February 1, 2023 to:

NCDWR Central Office  
Attention: 401 & Buffer Branch Supervisor, 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 shall 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, **February 4, 2023**. Comments should be submitted to Gary Beecher, **Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403**, at (910) 251-4694 or to [Gary.h.Beecher@usace.army.mil](mailto:Gary.h.Beecher@usace.army.mil)