



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: April 10, 2023  
Comment Deadline: May 10, 2023  
Corps Action ID Number: SAW-2021-00238

The Wilmington District, Corps of Engineers (Corps) received an application on February 22, 2023 from A. Sydes Construction Inc. seeking Department of the Army authorization to discharge fill material into 0.129 acre of wetland, 67 linear feet of stream, and 0.40 acre of linear open water ditches, associated with construction of future phases of the residential subdivision, known as Stateside, located south of Richlands, Onslow County, North Carolina.

Existing phases that are constructed or under construction were verified under two (2) Nationwide Permit actions. Impacts associated with the previous actions will be considered cumulative and thus exceed the threshold for a Nationwide Permit. Previously verified impacts included discharge of fill material in to 0.164 acre of wetland and 0.309 acre of linear open water ditches.

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. Tony Sydes  
A. Sydes Construction  
100 Carolina Plantations Boulevard  
Jacksonville, NC 28546

**AGENT (if applicable):** Davey Resource Group, Inc.  
c/o: Ms. Kim Williams  
3805 Wrightsville Avenue; Suite 15  
Wilmington, NC 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)

## Location

Location Description: The project area is an expansion of the existing Stateside residential subdivision located east of Gum Branch Road. The parcels included in the proposal can be accessed by turning onto Stateside Boulevard from Gum Branch Road. From Stateside Boulevard turn left onto Wood House Drive and then right onto Water Wagon Trail. Parcel ID numbers: 445103437554, 445002788148, 446000470958, 446000063528, 446000198377, 446000464605.

Project Area (acres): 1,374                      Nearest Town: Richlands  
Nearest Waterway: Hewitts Branch, Huffmans Branch      River Basin: White Oak  
Latitude and Longitude: 34.874652 N, -77.483263 W

## Existing Site Conditions

Current site conditions of the project area include a mix of forest, recently cleared area, and areas under construction. The project area is located east of the previously verified phases. The northern portion of the project area is already under construction, while the eastern portions are still forested.

For the existing phases not included in the project area, our office verified the use of Nationwide Permit (NWP) 29 on two separate occasions, both allowing a total discharge of 0.164 acre into wetlands and 0.309 acre into linear open water ditches for the construction of the subdivision road network and lot development. The impacts associated with previous phases will be considered cumulative with the impacts proposed in this application and are shown on Sheet 2 and 3 of the attached plans.

*Previously verified phases the two (2) Nationwide Permits 29 are as follows:*

- 2005 authorization for 0.004 acre of wetland and 0.219 acre of linear open water ditch impact
- 2019 authorization for 0.16 acre of wetland and 0.09 acre of linear open water ditch impact

The northern portion of the project area is currently under development (parcel 445103437554). This area is directly adjoining the previously verified phases and total approximately 267 acres. The parcel has been cleared and stormwater basins and utilities are under construction. Portions of the stormwater basins were constructed within jurisdictional ditches and are included in the proposed impacts as after the fact.

The parcels to the east are a mix of young, planted pines and natural forest with an existing dirt road that includes culverted wetland and stream crossings. Many of the wetland and streams in the eastern portion are held in an existing Conservation

Easement associated with Bachelors Delight Mitigation Bank. The drainage areas within the Conservation Easement are denoted on Sheets 6-8 as Weyerhaeuser NR Company property with deed and map book references.

### **Applicant's Stated Purpose**

The applicant's stated purpose is to continue the development an economically viable residential subdivision within Onslow County, NC to meet the housing needs of the community. The Stateside Tract is centrally located in the county and provides convenient access to both Jacksonville and Richlands.

### **Project Description**

The project consists of developing the remaining phases of the Stateside Tract as a residential subdivision with single-family lots, roads, and supporting infrastructure. The development of the future phases includes a Proposed Phase, Future Phase I, and Future Phase II. The Proposed Phase is the northern portion of the site with a specific site plan, which includes approximately 470 single-family lots, road infrastructure, and stormwater ponds (Sheets 4 & 5). Several jurisdictional ditches in the Proposed Phase will be piped or filled for lot development, stormwater ponds, and site access. Construction activities also include roadway grading and paving, the installation of water main services, and the installation of stormwater and wastewater collection systems. The Future Phase I section is estimated to be completed in the next 10-15 years and the Future Phase II is estimated to be complete in 20-25 years. Both Future Phases I and II are planned for low density residential; however, the layout in these Future Phases is conceptual.

Under this proposal, A. Sydes Construction is requesting authorization for 0.129 acre of permanent wetland impact associated with road crossings and 0.243 acre of temporary wetland impact associated with utility line installation and construction access. Additionally, 67 linear feet (0.0046 acre) of permanent stream impact and 40 linear feet (0.0027 acre) of temporary stream impact are requested for culvert installation and associated temporary work pads. Proposed plans also show permanent impacts to approximately 0.4 acre of open water ditch features that are located throughout the northern parcel (445103437554). It should be noted that approximately 0.06 acre of the 0.4 acre has been recently impacted with the current construction of a stormwater pond. This work was initiated prior to seeking authorization and is included with the applicant's proposal.

For Future Phases I and II the layout is conceptual; however, impacts proposed on Sheets 6-8 are the only jurisdictional impacts anticipated. These proposed impacts include wetland and stream crossings and improvements to existing crossings. These improvements are proposed to widen existing roads in the central and eastern portions of the tract to access uplands for residential lot development.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: plans were designed in an attempt to minimize impacts to jurisdictional areas as much as possible. Ditches to be impacted span the site and could not be avoided while still maintaining an economically viable project. Additionally, proposed wetland and stream impacts are needed to widen existing roads in order to provide site access and cannot be avoided. Proposed road crossings have been placed where old logging roads currently exist and where easements allow access. Culverts will be installed at these crossings to meet USACE and NCDWR regulations and headwalls will be used to minimize impacts. For all phases of development, roads will be constructed to NCDOT standards. Water and sewer utilities will tie into Onslow County Wastewater Treatment system. Utilities will be placed within the road rights-of-way throughout most of the tract.

The applicant further states that impacts to wetlands and water quality will be minimized by the development and implementation of a Stormwater Plan and a Sedimentation and Erosion Control Plan. These plans will reduce the potential for erosion or runoff into wetlands and other water bodies located off site.

### **Compensatory Mitigation**

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

For the proposed 0.129 acre of permanent wetland impacts associated with road crossings, A Sydes Construction has proposed to utilize Bachelors Delight Mitigation Bank to provide 0.3 acre of compensatory mitigation for wetland loss. No compensatory mitigation is proposed for the 67 linear feet (0.0046 acre) of permanent stream loss or the proposed 0.4 acre of permanent open water loss.

### **Essential Fish Habitat**

The Corps' 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 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.

Based on preliminary cultural resources data it is likely that an archaeological survey of high probability portions of the project area may be recommended.

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.

Based on information supplied by the applicant and information available to this office the project area is within the U.S. FWS Red Cockaded Woodpecker (*Picoides borealis*) consultation area established by the Standard Operating Procedures for Endangered Species (SLOPES) agreement. Additionally, the project area is within the ranges of the Northern Long-eared Bat (*Myotis septentrionalis*), Tri-colored Bat (*Perimyotis subflavus*), and Pondberry (*Lindera melissifolia*).

Initial aerial imagery surveys and ground observations done by the applicant note the stands of pines in the project area have been timbered and replanted relatively recently and support a dense understory of maple and sweetgum. The applicant notes there are some areas with pine trees between 6" and 8" diameter at breast height (DBH) but generally the forested areas are too dense, and the trees are too young to provide suitable foraging habitat.

Onslow County is within the range of the Northern Long-eared Bat and Tri-colored Bat. According to the applicant the forested areas of the project site could potentially provide appropriate winter and summer roosting habitat, however U.S. Fish and Wildlife have not identified any roost trees in Onslow County.

Additionally, the applicant notes that Pondberry, a deciduous shrub typically found in interior bottomland hardwood forests, may occur within the project area. However, most of the wetlands to be permanently impacted are riparian in nature and these areas do not appear to provide suitable 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 May 10, 2023 to:

NCDWR Central Office  
Attention: Ms. Stephanie Goss, 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, May 10, 2023. Comments should be submitted to Katharine Elks, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4567. Comments may also be submitted to [WilmingtonNCREG@usace.army.mil](mailto:WilmingtonNCREG@usace.army.mil)