



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: April 19, 2023  
Comment Deadline: May 18, 2023  
Corps Action ID Number: SAW-2022-00285

The Wilmington District, Corps of Engineers (Corps) received an application on March 28, 2023, from the Four County Electric Cooperative c/o: Mr. Gregg Cohn seeking Department of the Army authorization to discharge fill material into 1.37 acre of wetlands for the construction of an access road for a new electrical Point of Delivery (POD) and substation on property located on Island Creek Road (SR 1002), just west of intersection with NC Highway 210, near Hampstead, Pender County, North Carolina. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

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

**Applicant:** Mr. Gregg Cohn  
Four County Electric Cooperative  
1822 NC 53 West  
Burgaw, NC 28425

**AGENT (if applicable):** Ms. Dolores Hong  
Booth and Associates, LLC  
2300 Rexwoods Drive, Suite 300  
Raleigh, NC 27607

## 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 located off Island Creek Road, northwest of the Town of Hampstead, Pender County, NC. Parcel ID numbers: 3262-78-4633-00

Project Area (acres): 8.42                      Nearest Town: Hampstead  
Nearest Waterway: Harrison's Creek      River Basin: Cape Fear River  
Latitude and Longitude: 34.371934 N, -77.781768 W

## Existing Site Conditions

The project area is located on the south side of Island Creek Road (SR1002), approximately 5 miles west of the intersection of US 17 and NC 210 in Hampstead, North Carolina and the western edge of the site is adjacent to the Pender EMS and Fire Station 28 located at 1060-1622 State Rd 1002, Hampstead, NC 28443.

Approximately 7.9 acres of the 8.428-acre site are forested and the canopy is dominated by a mixture of longleaf pine (*Pinus palustris*) and loblolly pine (*Pinus taeda*). The understory and midstory vegetation vary from open to moderately dense. Individual pines ranged from 6 to 19 inches in diameter (DBH). Canopy was estimated to have greater than 90% cover of pine species that are at least 30 years old and include some greater than 60 years old. Portion of some forested areas have been influenced by silvicultural practices. The southern portion of the project area includes an existing powerline clearing and easement that is composed of a non-forested landscape and dominated by a mixture of herbaceous vegetation.

## Applicant's Stated Purpose

The applicant's stated purpose is to construct a new electrical Point of Delivery (POD) and substation adjacent to an existing DEP 230 kV transmission line and an existing FCEMC distribution line to improve electrical delivery reliability for existing FCEMC customers in Pender County, North Carolina. This project will be estimated to enhance the delivery of power in this zone and speed reconnection of power during power outages.

## Project Description

The project Substation will require clearing of 7.0± acre of forested area including 1.37 acres of wetland within the property owned by FCEMC and adjacent to a Duke Energy Progress (DEP) 230kV transmission line. The proposed project includes construction of a 0.23-mile access road, above ground electrical powerline, electrical substation, and transmission tap line. Site construction will be completed as follows: initial construction will involve mechanical clearing of trees and other vegetation on non-wetland areas and the installation of sedimentation and erosion control measures. Hand clearing with no mechanical clearing or stump removal along the wetland found in project. Once clearing is complete, grading will start for the 0.23-mile driveway corridor and the 1.7+ acre

substation “pad” where substation structures and equipment will be located. Upon completion of grading activities, construction will continue with installation of concrete foundations, steel structural members, transmission and distribution power poles and conductor, and various high voltage equipment needed for function of the substation.

The entrance of the proposed site connects directly with Island Creek Road (34.375199, -77.784037), across from the Wylie Branch Subdivision (Habersham Avenue, Rocky Point, NC 28457; 34.375701, -77.783511). A Duke Energy Progress (DEP) driveway will be provided from their right-of-way (ROW). The ROW adjoins the access road which connects to Island Creek Road 0.2 miles northeast from the proposed project access. All of the 1.37-acre wetland impacts are associated with the 20'-foot wide access road construction, with the substation footprint wholly in uplands.

### **Avoidance and Minimization**

The applicant has stated that multiple rounds of alternatives were evaluated to avoid and minimize wetland impacts, which resulted in the current project design. Proposed impacts to the 3.93 acres of the total wetland on site were reduced to 1.37 acres and included: reduction of the road width to the minimum width necessary to accommodate vehicles that needed to access to the site; substation pad reduced to the minimum size necessary to accommodate equipment needed to operate the substation; substation pad located to maximize use of non-jurisdictional wetland areas in the southeastern corner of the property; stockpile located on non-wetland area.

### **Compensatory Mitigation**

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

For the proposed 1.37 acre of permanent wetland impacts associated with substation and road, A Four County Electric has proposed to utilize Northeast Cape Fear Umbrella Mitigation Bank, which is located within the same service area and has obtained a pre-approval letter from the bank to provide needed compensatory mitigation credit for proposed impacts to non-riparian 2.0 acre of compensatory mitigation for wetland 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.

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.

Pender 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 Pender County.

- 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 June 13, 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 18th, 2023. Comments should be submitted to Thomas Charles, Wilmington Regulatory Field Office, at [Thomas.p.charles@usace.army.mil](mailto:Thomas.p.charles@usace.army.mil) or at 69 Darlington Avenue, Wilmington, North Carolina 28403 . If you have questions, please direct them to Mr. Charles at his email address or at (910) 251-4101. Comments may also be submitted to [WilmingtonNCREG@usace.army.mil](mailto:WilmingtonNCREG@usace.army.mil)