



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: July 24, 2023  
Comment Deadline: August 24, 2023  
Corps Action ID Number: SAW-2023-00510

The Wilmington District, Corps of Engineers (Corps) received an application from the Town of Fairmont, c/o Mr. Jerome Chestnut seeking Department of the Army authorization to permanently impact and fill 0.514 acres of 404 wetlands and temporary wetland impacts of 0.446-acres to improve the road access to the Town's Wastewater Treatment Plant, on Highway 74/76 adjacent to the Lumber River, near the community of Boardman in Robeson 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. Jerome Chestnut  
Town Manager, Town of Fairmont  
421 South Main Street  
Fairmont, NC 28304

**AGENT (if applicable):** Mr. William Mullin  
Dr. J.H. Carter III & Associates Inc.  
515F Midland Road  
Southern Pines, NC 28387

## 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 project (Town of Fairmont Woodrow Road WWTP Access Road Improvements) is located at the end of Woodrow Road, on the southwest side of Hwy 74/76, adjacent to the Lumber River, near the community of Boardman, Robeson County, NC.

Project Area (acres): 1.6 acres  
Nearest Town: Evergreen  
River Basin: Lumber  
Watershed Hydrologic Unit Code: 030402031104  
Nearest Waterway: Lumber River  
Latitude and Longitude: 34.44334 N, -78.97051 W

## **Existing Site Conditions**

This new permit action (SAW-2023-00510) will include a 1.6-acre project area that is located at the existing Fairmont Wastewater Treatment Plant on Woodrow Road and Hwy 74. This location currently contains the operational Fairmont wastewater treatment plant. The plant and access road were constructed using an Individual Permit Action (SAW-1998-01874)

The 2000 Department of Army authorization included the construction of 11 miles of new sanitary sewer force main, a wastewater treatment facility, access road and a discharge pipe into the Lumber River. The combined wetland impacts for this permit action included 1.9-acres of permanent wetland impacts and 0.8-acres of temporary impacts.

Based on the topographic map for this area, the wetlands on site and adjacent to this site flow to the Lumber River, which is approximately 1.0 miles from the project site.

The site is located in the Lumber River Basin surrounded by the Lumber River to the NE, Little Bluff Swamp, Flowers Swamp and Big Swamp. These areas consist of low land bottomland swamp forest and tributary features. Historic agriculture fields and croplands can be found in higher elevations surrounding these low areas. There are several abandoned NCDOT borrow pits located within 2000 feet of the existing WWTP and project area. The wetlands on the project site are dominated by a mixed overstory containing willow oak (*Quercus phellos*), sweet gum (*Liquidambar styraciflua*), water ash (*Fraxinus carolinana*), bald cypress (*Taxodium distichum*) and loblolly pine (*Pinus taeda*).

According to the Robeson County USDA Soil Survey, the site is predominantly Leon sand (Le), with areas of Lumbee sandy loam (Lu) and Johns Sandy Loam (Jo) located directly to the south of the existing wastewater treatment plant and access road. The area to the west of the access road and WWTP is comprised of Portsmouth loam (Pt) with a large area of Johnston (JT) soils directly surrounding the WWTP site. All of these soils have a hydric rating.

## **Applicant's Stated Purpose**

The applicant's purpose, as disclosed in the application, is to improve the existing access road (Woodrow Road) by raising it for better flood protection. This will allow access to the plant during and after storm events.

## **Project Description**

The proposed project will discharge fill material into 0.514-acres of wetlands for the improvement of the existing roadway (Woodrow Road). The proposed roadway improvements will include adding fill to raise the elevation of the road for flood protection and widening the base of the road to allow for an appropriate and manageable side slope. Impacts for the proposed road work will include the permanent filling of 0.514-acres of wetlands along the existing roadway. In addition to the permanent impacts, an additional 0.446-acres of wetlands will be temporarily impacted during the road construction work that will take place within the limits of disturbance. These areas will have heavy equipment in them, but no fill or elevation changes are proposed for the temporary impacts. A new force main will also be installed via open cut trenching in the footprint of the access road improvements. The temporary wetland impacts will be restored by returning the area to original elevations after the work is complete.

While improvements to the access road are being completed, an existing soil/dirt road to the south of the WWTP will be used for travel to and from the facility. This is an old, existing road that was constructed in uplands many years ago. To accommodate the equipment and traffic, improvements will be made to an existing drainage culvert on this dirt road. The old culvert will be replaced with a more durable and modern culvert/pipe.

## **Avoidance and Minimization**

Alternative evaluation was performed by the applicant 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 NC Division of Mitigation Services (NCDMS) to offset the permanent wetland impacts.

The applicants stated minimization efforts included using the existing access road that was previously authorized by the Department of Army (DA) permit issued in 2000. The proposed work will require less wetland impacts than to construct a new road to the WWTP.

## **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 have no effect or impact to

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 property.
- 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 **August 24, 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, **August 24, 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)