



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: July 24, 2024
Comment Deadline: August 23, 2024
Corps Action ID Number: SAW-2015-00471

The Wilmington District, Corps of Engineers (Corps) received an application on June 27, 2024, from Novo Nordisk seeking Department of the Army authorization to discharge dredged or fill material into potential waters of the United States, including wetlands, a portion of which would be after the fact, associated with the expansion the existing Novo Nordisk Facility, commonly known as Project Brightsky, in Clayton, in Johnston 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: Novo Nordisk
Mr. Larry Lane
2641 Powhatan Road
Clayton, North Carolina 27520

AGENT (if applicable): Wetland and Waters, Inc.
Mr. Perry Isner
328 East Broad Street, Suite D
Statesville, North Carolina 28670

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: As depicted in Figure 1, the proposed expansion of the existing Novo Nordisk Facility, commonly known as project Brightsky (Project), is situated in Clayton, in Johnston County, North Carolina. Specifically, the total Project area (Site) (comprised of Johnston County PINs: 05J06001A and 05J05030G) is approximately 553 acres and is located primarily north of the North Carolina Railroad/Norfolk Southern rail line and south of Powhatan Road (SR 1901).

Project Area (acres): ~553

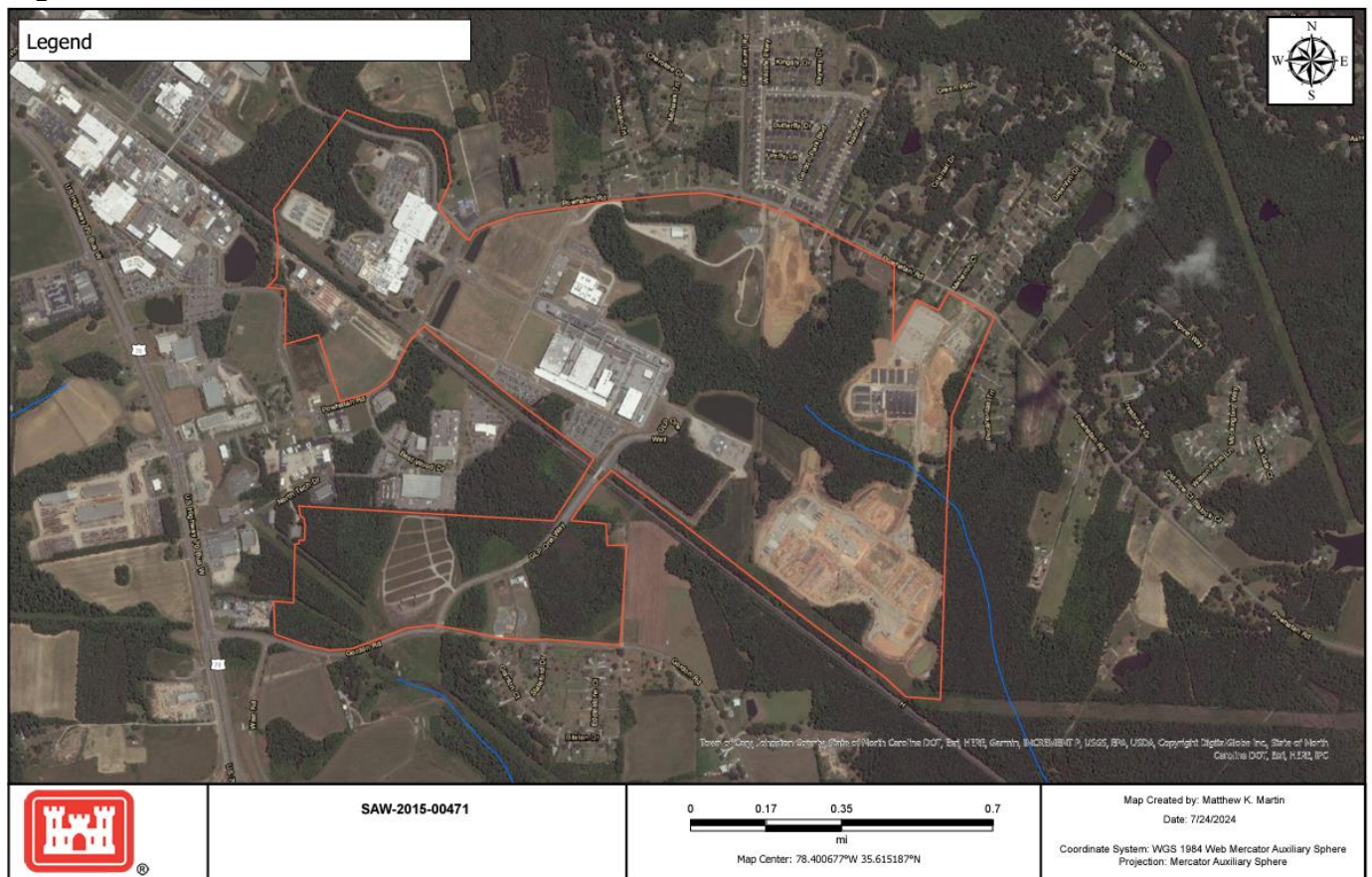
Nearest Town: Clayton

Nearest Waterway: Little Poplar Creek

River Basin: Neuse

Latitude and Longitude: 35.614338 N, -78.396031 W

Figure 1



Existing Site Conditions

The Site is located within the Upper Neuse sub-watershed in the Neuse River Basin (Hydrologic Unit Code [HUC] 03020201). The Site drains to Little Poplar Creek (Stream Index: 27-41-1) which is designated as a WS-IV; NSW water (Water Supply IV, Nutrient Sensitive Waters) by the North Carolina Department of Environmental Quality (NCDEQ). The Site is bound by residential communities to the north, industrial and commercial land use to the south and west, and undeveloped woodlands and agricultural land use to the east.

The Site is comprised of an existing pharmaceutical facility, mowed/maintained areas, and hardwood pine forest. The hardwood pine forest community consists of a mixture of mature red maple (*Acer rubrum*), tulip poplar (*Liriodendron tulipifera*), sweetgum (*Liquidambar styraciflua*), and loblolly pine (*Pinus taeda*). The herbaceous stratum contains mowed and maintained areas with sparse groundcover in the hardwood pine forest.

Primary wetland hydrology indicators such as high water table and saturation were observed within the wetland area. The dominant trees/sapling/shrubs observed at wetland determination data form locations included loblolly pine, red maple, and sourwood (*Oxydendrum arboreum*). Dominant groundcover species observed consisted of American strawberry bush (*Euonymus americanus*) and netted chainfern (*Woodwardia areolata*). Soils within wetlands at the data form locations are sandy in texture and appear to meet the sandy redox hydric soil indicator.

Based on information obtained from the United State Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey for Johnston County, the Soils within the Site are comprised of 10 soil mapping units summarized in Table 1 below.

Table 1

Map Unit Symbol	Map Unit Name
GoA	Goldsboro sandy loam, 0 to 2 percent slopes
Ly	Lynchburg sandy loam, 0 to 2 percent slopes
MaB	Marlboro sandy loam, 2 to 8 percent slopes
McB	Marlboro-Cecil complex, 2 to 8 percent slopes
NoA	Norfolk loamy sand, 0 to 2 percent slopes
NoB	Norfolk loamy sand, 2 to 6 percent slopes
Ra	Rains sandy loam, 0 to 2 percent slopes
Tn	Toisnot loam, 0 to 2 percent slopes
VrA	Varina loamy sand, 0 to 2 percent slopes
VrB	Varina loamy sand, 2 to 6 percent slopes

The applicant requested a combination Approved Jurisdictional Determination (AJD) and Preliminary Jurisdictional Determination (PJD) for the Site in October 2023. The

Corps previously issued four (4) Jurisdictional Determinations for various portions of the Novo Nordisk property (Table 2). The Corps previously verified the use of two (2) Nationwide Permits (NWP) and issued two (2) Standard Permits (SPs) for various portions of the Novo Nordisk facility (Table 3).

Table 2. Previous Jurisdictional Determinations

Action ID	Type	Issue Date	Expiration Date
SAW-2001-20901	AJD	June 13, 2001	June 13, 2006
SAW-2015-02127	AJD	January 6, 2016	January 6, 2021
SAW-2017-00814	PJD	November 22, 2017	N/A
SAW-2021-02032	PJD	February 2, 2022	N/A

Table 3. Previous Permit Actions

Action ID	Permit Type	Date Verified/ Issued	Project Description	Wetland Impacts (acre)	Stream Impacts (linear feet)
SAW-2004-20153	NWP 39	November 2004	Facilitates an expansion of the Novo Nordisk facility west of Powhatan Road	---	229
SAW-2015-00471	NWP 39	October 2015	Widening of an existing roadway related to the Novo Nordisk facility west of Powhatan Road	---	77
SAW-2015-02127	SP	May 2016	Construction of the Novo Nordisk Active Pharmaceutical Ingredient production facility to the east of Powhatan Road	2.45	188
SAW-2015-00471	SP	June 2023	Construction of pharmaceutical production, storage, parking facilities, and access roads related to the Novo Nordisk facility east of Powhatan Road	0.83	1,642

Applicant's Stated Purpose

The project purpose as stated by the applicant is to construct a Fill and Finish (FF) facility in order to increase the capacity to provide diabetic medication throughout the United States.

The applicant stated that during Covid-19 Pandemic, the safe supply of diabetic products reached single digit days on hand. According to the applicant normal safe supply for diabetic products is 60 days on hand. The Clayton FF facility is proposing to undergo a significant expansion to increase production capacity to meet this demand.

Project Description

In order to meet the stated purpose the applicant proposes to develop the Project. This development would address a portion of the existing demand for diabetic medication in

United States. Novo Nordisk experienced significant disruption of their supply chain during the Covid-19 pandemic. This expansion would ensure that inventory levels of raw materials, intermediates, and finished products are maintained at sufficient levels to greatly reduce any potential disruption in providing life-saving medications to their customers.

The proposed campus would provide additional areas for the manufacturing, professional support services associated with the production of Active Pharmaceutical Ingredients, the FF Facility, electrical substations, and a Waste Water Pre-Treatment Facility (WWPTF). The site currently supports approximately 1.3 million square feet of facilities and would grow with the new FF facility to approximately 2.5 million square feet. Employment would increase from 1,750 to 3,600 personnel. The campus would operate continuously, producing and packaging life-saving medicines.

The proposed project would involve the permanent discharge of fill material into 17.31 acres of wetlands and 0.163 acre (1,030 linear feet) of stream associated with lot fill, as well as 1.13 acres of wetlands and 0.047 acre (247 linear feet) of stream for road crossings. One of the proposed road crossings (approximately 0.389 acre of wetlands and 0.012 acre of stream) was constructed prior to receipt of Department of the Army authorization for this project and would be considered an after the fact portion of the activity.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The applicant states that the project has been designed to minimize impacts to potentially jurisdictional features throughout the primary riparian corridor to the greatest extent possible. The proposed impacts in these areas are primarily for road crossings in order to access high ground and to facilitate safe ingress and egress to and from the parking deck during shift change. The first of these crossings has been located at the narrowest point in the wetland complex. Two additional impacts are proposed for the primary perimeter circulation road for the facility. The proposed discharges at impact sites 1.04, 1.010, 1.011, and 1.012 (17.14 acres of wetlands) are to areas that the applicant believes to be non jurisdictional wetlands; an AJD is currently being processed for those features, and no determination has been made by the Corps at this time.

Additionally, the application states that the required parking for the expanded facility would be ~1,500 spaces. The applicant has proposed to construct a multi-level parking deck rather than pursuing traditional horizontal parking to avoid impacts at this location.

Compensatory Mitigation

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

The applicant proposes to provide compensatory mitigation at a 2:1 mitigation to impact ratio for the loss of all potentially jurisdictional streams and wetlands.

The applicant proposes to purchase 2,554 warm-water stream credits and 2.6 riparian non-riverine and 34.28 non-riparian wetland credits from a combination of available private mitigation banks and the North Carolina Division of Mitigation Services (NCDMS) in lieu fee program. The proposed compensatory mitigation plan is summarized in Tables 4 and 5 below.

Table 4. Stream Compensatory Mitigation

Impact #	Stream Impact (linear feet)	Stream Impact (acre)	Proposed Mitigation Ratio	Proposed Mitigation Credits
1.01	1,030	0.16	2:1	2060
1.06	69	0.02	2:1	138
1.07	80	0.02	2:1	160
1.08	98	0.01	2:1	196
Totals:	1,277	0.21		2,554

Table 5. Wetland Compensatory Mitigation

Impact #	Wetland Impact (acre)	Proposed Mitigation Ratio	Proposed Mitigation Credits
1.01	0.01	2:1	0.02
1.04	0.56	2:1	1.12
1.06	0.18	2:1	0.36
1.07	0.52	2:1	1.04
1.08	0.43	2:1	0.86
1.09	0.16	2:1	0.32
1.010	0.07	2:1	0.14
1.011	2.15	2:1	4.30
1.012	14.36	2:1	28.72
Totals:	18.44		36.88

Essential Fish Habitat (EFH)

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.

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:

- ☒ No historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO and/or THPO.

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:

- ☒ For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect, Not Likely To Adversely Affect

☒ 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.

Table 6. Endangered Species Act Effect Determinations

Species	Status	Effect Determination
Red-cockaded woodpecker (<i>Picoides borealis</i>)	Endangered	No Effect
Neuse River waterdog (<i>Necturus lewisi</i>)	Threatened	MA-NLAA ¹
Carolina madtom (<i>Noturus furiosus</i>)	Endangered	MA-NLAA ¹
Atlantic pigtoe (<i>Fusconaia masoni</i>)	Threatened	MA-NLAA ¹
Dwarf wedgemussel (<i>Alasmidonta heterodon</i>)	Endangered	MA-NLAA ¹
Yellow lance (<i>Elliptio lanceolata</i>)	Threatened	MA-NLAA ¹

¹ May Affect Not Likely to Adversely Affect

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 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 180 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office
Attention: Stephanie Goss, 401 and Buffer Permitting Branch
(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):

- ☒ 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, August 23, 2024. Comments should be submitted to Matthew Martin, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, or via email at Matthew.K.Martin@usace.army.mil. The Corps Project Manager can be contacted at (984) 800-3741. Comments may also be submitted to RaleighNCREG@usace.army.mil.