



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: April 15, 2024
Comment Deadline: May 15, 2024
Corps Action ID Number: SAW-2021-02689

The Wilmington District, Corps of Engineers (Corps) received an application on March 28, 2024 from Brent Wood of the Fred Smith Company seeking Department of the Army authorization to fill 1.825-acres of wetlands, associated with the construction of a new asphalt plant in Battleboro, Edgecombe 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: Brent Wood
Fred Smith Company
701 Corporate Center Drive, Suite 101
Raleigh, North Carolina 27607

AGENT (if applicable): Rick Trone
WithersRavenel
115 MacKenan Drive
Cary, North Carolina 27511

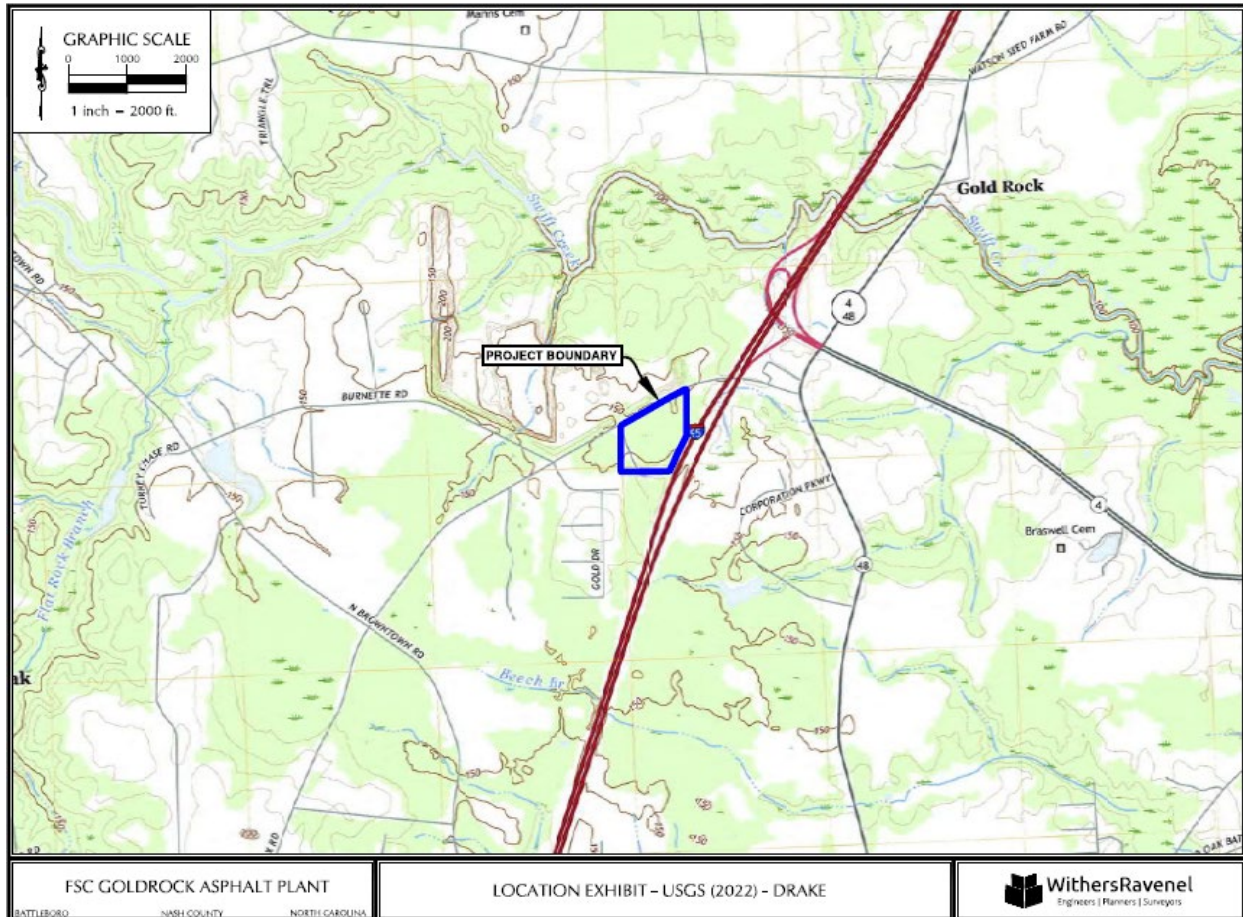
Authority

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)

Location

Location Description: The project area is located immediately south of 7526 N. Halifax Road and west of I-95. The approximately 16.8 acres site is located across N. Halifax Road from the existing asphalt plant which is located on approximately 8.5 acres within the Wake Stone Company property.



Project Area (acres): 16.83
Nearest Town: Battleboro
Nearest Waterway: Swift Creek
River Basin: Tar-Pamlico
Latitude and Longitude: 36.059323 N, -77.828442W

Existing Site Conditions

The current site conditions include fill pad/storage area for raw materials for the asphalt plant with an entrance into N. Halifax Road on the northern end of the property, a second unimproved road on the southwest end of the property, and a manmade pond near the southern end of the property. Much of the property was logged in 2022 with the exception of limited forested areas located primarily around the perimeter of the

property and in the central part of the property in the area identified as potentially jurisdictional wetlands. The potentially jurisdictional and non-jurisdictional aquatic resources were identified in the jurisdictional determination issued on March 10, 2023 under USACE action ID# SAW-2021-02689. The adjacent properties include the Wake Stone Corporation Quarry, FSC Gold Rock Asphalt plant, commercial properties, a residential development, and Interstate 95.

Applicant's Stated Purpose

The applicant has proposed to construct a new asphalt plant to meet existing and forecasted demand for asphalt products in the region including the continuing improvements of I-95 and additional need of private development occurring in the service area. The applicant has stated that current site cannot support the proposed larger facility and Wake Stone Company has plans to expand into the area currently occupied by the Fred Smith Company.

Project Description

The proposed project is to construct of a new larger asphalt plant on the portion of the property abutting N. Halifax Road, a gravel yard stockpile area on the majority of the property, a haul road around the perimeter of the gravel yard, and stormwater pond on the southern portion of the property. There are a total of 1.82 acres of permanent impacts to the wetlands located centrally on the property for the construction of the gravel yard and a portion of the haul road.

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 has proposed to fill all wetlands on site stating avoidance of impacts to these wetlands was not possible due to the location of the wetlands in the center of the property. The applicant stated that avoidance of impacts would make the stockpile area for aggregate insufficient for anticipated production and create safety issues for the movement of equipment on the property.

Compensatory Mitigation

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

To compensate for the permanent impacts to wetlands at a 1:1 ratio, 1.825 acres of non-riparian wetland credits are proposed to be purchased for the project. All mitigation credits will be purchased from the N.C. Division of Mitigation Services (DMS). A statement of availability letter has been provided from DMS for the full amount of anticipated mitigation.

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.

N/A – No EFH present within project area.

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 resources listed in or eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to SHPO, THPO, and/or other interested parties to provide any information they may have regarding historic properties.

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 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 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 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 (NCDWM):

- ☒ 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, April 15, 2024. Comments should be submitted to Shane Staples, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, or via email at shane.f.staples@usace.army.mil. The Corps Project Manager can be contacted at (910) 251-4609. Comments may also be submitted to WashingtonNCREG@usace.army.mil.