



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: January 12, 2018
Comment Deadline: February 10, 2018
Corps Action ID Number: SAW-2018-00040

The Wilmington District, Corps of Engineers (Corps) received an application from Egger Wood Products, LLC seeking Department of the Army authorization to impact approximately 1.00 acre of open water pond, 0.238 acre of wetland and 49 linear feet of stream channel of the jurisdictional waters of South Potts Creek associated with the proposed construction of a wood based products manufacturing facility located off Belmont Road in Linwood, Davidson 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: Egger Wood Products, LLC
Mr. Bernhard Vorreiter
PO Box 907
Lexington, North Carolina 27293

AGENT (if applicable): Pilot Environmental, Inc.
Mr. Bradley Luckey
PO Box 128
Kernersville, North Carolina 27285

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)

Tree of Heaven (*Ailanthus altissima*) in the tree/sapling stratum. Understory vegetation includes Christmas fern (*Polystichum acrostichoides*), sawtooth blackberry (*Rubus argutus*), Japanese honeysuckle (*Lonicera japonica*), green briar species (*Smilax sp.*), muscadine grape (*Vitis rotundifolia*), Virginia creeper (*Parthenocissus quinquefolia*) and ebony spleenwort (*Asplenium platyneuron*).

The vegetation located within the jurisdictional areas of impact are dominated by the following species:

Table 4: Vegetation		
Species	Stratum	Wetland Indicator
<i>Acer rubrum</i> Red Maple	Canopy/Midstory Tree/Sap	FAC
<i>Liquidambar styraciflua</i> Sweet Gum	Canopy/Midstory Tree/Sap	FAC
<i>Salix nigra</i> Black Willow	Midstory/Understory Tree/Sap	OBL
<i>Ligustrum sinense</i> Chinese Privett	Midstory/Understory Sap/Herb	FAC
<i>Lonicera japonica</i> Japanese Honeysuckle	Midstory/Understory Vine/Herb	FAC
<i>Vitis rotundifolia</i> Muscadine grape	Midstory/Understory Vine/Herb	FAC
<i>Smilax rotundifolia</i> Green Briar	Midstory/Understory Vine/Herb	FAC
<i>Rubus argutus</i> Sawtooth Blackberry	Understory Herb	FAC
<i>Juncus effusus</i> Common Rush	Understory Herb	FACW
<i>Microstegium vimineum</i> Japanese Stilt Grass	Understory Herb	FAC
<i>Schedonorus sp.</i> Fescue Grass	Understory Herb	FACU
<i>Conyza canadensis</i> Horseweed	Understory Herb	FACU
<i>Eupatorium capillifolium</i> Dogfennel	Understory Herb	FACU
<i>Andropogon virginicus</i> Bluestem Broomsedge	Understory Herb	FAC

Applicant's Stated Purpose

As stated by the applicant, the purpose of the Proposed Project is to develop a large scale composite wood products manufacturing facility within the North American market that is capable of incorporating future technological advances and production lines to allow the facility to remain viable in the future.

Project Description

The Proposed Facility will be developed in three phases over the course of 8 to 15 years.

Phase I of development includes construction of a particle board production facility comprised of raw material storage areas, production lines including automated conveyors between production areas/buildings, finished product storage, administration buildings, maintenance buildings and necessary infrastructure to support manufacturing. Necessary infrastructure includes rail spur extensions and an access drive for import and export of raw materials and finished products, electricity sub-station and relocation of an overhead transmission line, a fire suppression system, water treatment system and a stormwater management pond. Particle board production within Phase I of development will be a variety of forms and sizes for different end users.

Phase II of the development is anticipated to occur within the next five years. Phase II of development includes the construction of a second manufacturing line that produces panels, finished furniture parts and kitchen cabinet parts. Phase III of the development is anticipated to occur within the next 8 to 15 years and will include the construction of a third wood panel production line. The type of production line in Phase III will be determined based upon market conditions at that time and could manufacture orientated strand board (OSB), medium density fiberboards (MDF) or another type of thermally fused laminate (TFL). Phase III will also include an ancillary glues/resins production facility to support the Phase I and Phase III primary manufacturing lines. Due to safety and regulatory concerns, the glue/resin building cannot be located proximate to raw material storage or the three proposed manufacturing lines. Infrastructure to support Phases II and III will be extended or installed as Phases II and III are constructed. Production chains of Phase I are not increased by Phases II and III.

Avoidance and Minimization

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

Based on the alternative's analysis completed by the applicant, the Proposed Project was determined to be the preferred alternative and the least damaging to the environment while still meeting the Applicant's purpose and need. Specifically, the recent purchase and addition of approximately 13 acres to the eastern portion of the Project Area resulted in significantly less impacts to WoUS located on the northern portion of the Project Area

as a result of Phase III being able to be shifted to the east and south within the Project Area.

The applicant has incorporated the use of retaining walls at significantly increased construction costs in efforts to further minimize the impact to the environment and jurisdictional features. An approximate 6.5 foot tall retaining wall is being proposed to avoid fill impact to Wetland WT 1-8. The proposed retaining wall has shortened fill side slopes associated with the proposed rail spurs and avoided impact to 0.363 acres of wetlands.

A second retaining wall is proposed within the area of proposed impacts to WoUS. The Applicant evaluated attempting to avoid or minimize proposed impacts with increasing the height of this wall. However, due to fill slopes within the overhead transmission line right-of-way being limited to 4:1, the retaining wall would have to be at an approximate height of 35 to 40 feet to avoid proposed impacts to a portion of the open water pond PX 1-43/PXA 1-12 and Stream SX 1-4. Therefore, due to safety concerns associated with relative position of rail lines and construction costs of the retaining wall compared to the impact to low quality WoUS, it was determined through design techniques that the second retaining wall would be used for the purpose of constructability and long-term maintenance ease and was not feasible to attempt to utilize for avoidance and minimization of impacts to WoUS.

The sequence of construction has been designed to minimize areas of exposed/bare soils and secondary impacts by siltation of downstream waters. During construction of the project, erosion control devices will be routinely inspected and maintained to minimize the amount of sediment loss from the Project to down-gradient WoUS. Disturbed areas will be re-seeded promptly, where possible, to prevent future erosion and sediment runoff into down-gradient waters. Stockpiling excavated soil will be avoided where possible. If temporary stockpiling is necessary, the stockpiles be bermed and surrounded with silt fencing or other best management practices will be used. Erosion control inspections will be routinely conducted by the Applicant's contractor and scheduled with the Land Quality Section as necessary. All construction efforts will be performed in accordance with design specifications prepared by the engineer and approved by local and state regulating authorities.

There are approximately 834 linear feet of perennial stream channel, 90 linear feet of intermittent stream channel, 2.906 acres of wetlands and 1.00 acres of open water pond located within the Project Area. Impacts to 834 linear feet of perennial stream channel, 41 linear feet of intermittent stream channel and 2.668 acres of wetlands have been avoided. The Proposed Facility has been designed in a manner that allows for future expansion to incorporate future technological advances and production lines without additional impacts to WoUS outside of those proposed within this application. Additional impacts to WoUS beyond those that are proposed in this project are not anticipated.

Compensatory Mitigation

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

The applicant has attempted to avoid and minimize impacts where possible and will compensate to the extent practicable, for the remaining unavoidable losses with mitigation. The applicant proposes the following mitigation for the unavoidable impacts to WoUS:

Table 7 Mitigation Proposal				
Impact Feature	Type of Impact	Proposed Mitigation Ratio	Impact Amount	Required Credits
Wetland WXA 1-22	Fill	1:1	0.238 Ac	0.24 Ac

The Wetland WXA 1-22 has been classified as a low-quality wetland by NCWAM. Furthermore, based upon site observations and provided documentation, it is the opinion of the Applicant that the mitigation ratio for Wetland WXA 1-22 should not exceed a 1:1 ratio. At the ratio proposed, the applicant will purchase 0.24 acres of wetland credits, which will exceed mitigation credit requirements.

Mitigation is not proposed for impact to the open water pond PX 1-43/PXA 1-12 or the intermittent stream SX 1-4. Previous impacts to streams associated with the I-85 Davidson Corporate Center Industrial Park sanitary sewer improvements (SAW-2017-02504) are 43 linear feet. When considered cumulative with those proposed in this application, cumulative impact totals are less than 150 linear feet of stream impact. Therefore, mitigation should not be required for the Proposed Project's impact to Stream SX 1-4. However, it should be noted that Stream SX 1-4 is a low-quality stream feature as classified by NCSAM and documented within this application.

The applicant proposes to compensate for impacts associated with the Proposed Project by offering payment into the NCDEQ-Division of Mitigation Services (DMS). Private mitigation banks, within the watershed of the Proposed Project, did not have credits available at the time of the Applicant's request. According to a November 29, 2017 letter issued by the NCDEQ-DMS, the required mitigation credits are available.

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 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 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 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 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. A waiver will be deemed to occur if the NCDWR fails to act on this

request for certification within sixty days of receipt of a complete application. 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 March 12 ,2018 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 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, February 10, 2018. Comments should be submitted to Bryan Roden-Reynolds, Regulatory Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, ROOM 208, at (704) 510-1440.