



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: October 19, 2018
Comment Deadline: November 19, 2018
Corps Action ID Number: SAW-2018-00162

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Dan Lacz of SL Horton Road LLC seeking Department of the Army authorization to grade and place fill material in 0.017 acre of wetlands, 115 linear feet of stream, and 1.009 acres of open water, to facilitate the construction of a commercial warehousing and distribution center in Charlotte, Mecklenburg 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: SL Horton Road LLC
Attn: Mr. Dan Lacz
195 Morristown Road
Basking Ridge, NJ 07920
danlacz@silvermangroup.net
973-634-1214

AGENT (if applicable): Atlas Environmental, Inc.
Attn: Mrs. Jennifer Robertson
712 English Tudor Lane
Charlotte, NC 28211
jrobertson@atlasenvi.com
704-512-1206

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 site is located at 10137 Horton Road, Charlotte (Mecklenburg County), North Carolina off I-485 exit 6 (West Blvd).

Project Area (acres): ~ 42.6

Nearest Town: Charlotte

Latitude and Longitude: 35.18432 N, -80.97293 W **River Basin:** Catawba

Nearest Waterway: Legion Lake and Shoaf Lake to Beaverdam Creek

Existing Site Conditions

The project site contains 1,171 linear feet of perennial stream, 176 linear feet of intermittent stream, 0.058 acre of wetlands, and 1.009 acres of open water. The majority of the project site was clear cut and then planted in loblolly pines in 2016 by the previous property owner under a forestry management plan. The site contains mature hardwoods and a sparse herbaceous layer along the perennial stream. Canopy tree species include tulip poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), southern red oak (*Quercus falcata*), and northern red oak (*Quercus rubra*). Saplings/shrub species include American beech (*Fagus grandifolia*), red maple (*Acer rubrum*), and sourwood (*Oxydendrum arboreum*). Herbaceous species include poison ivy (*Toxicodendron radicans*), Christmas fern (*Polystichum acrostichoides*), Virginia creeper (*Parthenocissus quinquefolia*), and little brown jug (*Hexastylis arifolia*). Maintained areas on site include species such as ragweed (*Ambrosia artemisiifolia*), goldenrod (*Solidago canadensis*), pokeweed (*Phytolacca americana*), broadleaf plantain (*Plantain major*), tall fescue (*Festuca arundinacea*), and white clover (*Trifolium repens*).

Applicant's Stated Purpose

The overall project purpose is to provide warehouse space for vendors that do business at the Charlotte Regional Intermodal Facility (CRIF) and Charlotte International Airport (CLT).

Project Description

The proposed development includes the construction of one commercial warehouse building that would include approximately 421,900 square feet of usable space and would be available for single or multi-tenant leasing. Site development would include construction of the warehouse building, two trailer parking areas, two employee parking areas, two truck courts, and two stormwater management ponds. The property is located less than 1.5 driving miles from the CRIF and CLT and would provide easy access to these facilities. The proposed impacts to waters of the United States are shown in Table 1.

Table 1. Summary of Project Impacts

Impact #	Resource ID	Resource Type	Quality	Impact Amount	Units
1	Pond 1	Open Water	N/A	1.009	Acre
2	CH 200	Intermittent Stream	Low	115	Linear Feet
3	WL 1000	Wetland	Medium	0.006	Acre
4	WL 3000	Wetland	Low	0.002	Acre
5	WL 3100	Wetland	Low	0.006	Acre
6	WL 3200	Wetland	Low	0.003	Acre

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 would avoid 1,232 linear feet of stream and 0.041 acre of wetland on the project site. The perennial stream onsite would be avoided. The wetland that would be avoided is a higher quality floodplain wetland. The stream impact associated with the initial design plan was reduced from 145 linear feet to 115 linear feet. No development would occur within the delineated floodplain areas. The project would avoid 88.5% of the streams and 70.7% of the wetlands on site.

Compensatory Mitigation

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

The applicant is proposing enhanced stormwater BMPs and onsite riparian buffer preservation to compensate for the loss of 1.009 acre of impounded waters of the United States. Stormwater discharging coming from the site, outside of the regulated floodplain, would be controlled for the 50-year event versus the 25-year storm event required by local regulations. This would reduce the volume and frequency of discharges coming from the project site. This reduction of flow would decrease potential sediment from stream bank erosion at the downstream receiving waters and reduce flashy storm flows during large storm events. Stream buffers along the intermittent/perennial stream at the eastern property boundary would be established and would range from 35 linear feet to 230 linear feet in width and would total ~5.7 acres in area. The proposed buffer widths would exceed the 30 linear foot and 35 linear foot post construction stream buffers required by Mecklenburg County.

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 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, 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 SHPO issued a letter to the applicant dated May 7, 2018 that their office had no comment on the project as proposed.

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 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.

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 November 19, 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):

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, November 19, 2018. Comments should be submitted to Mr. David Shaeffer, Regulatory Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006 , telephone at (704) 510-1437 or email at David.L.Shaeffer@usace.army.mil.