



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: January 9, 2014  
Comment Deadline: February 10, 2014  
Corps Action ID Number: SAW-2000-00378

The Wilmington District, Corps of Engineers (Corps) received an application from Cumberland County seeking Department of the Army authorization for permanent impact to 1.91 acres of Section 404 jurisdictional Waters of the United States, specifically wetlands adjacent to the Cape Fear River. Of the 1.91 acres of wetland impact, 1.65 acres has already occurred, and for these impacts Cumberland County is seeking after-the-fact authorization. The proposed impacts are associated with the Cumberland County Ann Street Landfill Borrow Area Expansion project located at 690 Ann Street, approximately 0.5 mile northeast of the intersection of Ann Street and Grove Street in Fayetteville, Cumberland County, North Carolina (PIN# 0447-09-9244).

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:** Jeffery P. Brown, PE  
Engineering and Infrastructure Department  
County of Cumberland  
130 Gillespie Street  
Fayetteville, NC 28302

**AGENT** Kelly R. Boone, PE  
Water Resources Engineer  
CDM Smith  
5400 Glenwood Avenue, Suite 300  
Raleigh, North Carolina 27612

## 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**

Directions to Site: The site is located at 690 Ann Street, approximately 0.5 mile northeast of the intersection of Ann Street and Grove Street in Fayetteville, Cumberland County, North Carolina

Project Area (acres): 354.5                      Nearest Town: Fayetteville  
Nearest Waterway: Cape Fear River              River Basin: Cape Fear River  
Latitude and Longitude: -78.862255 N, 35.066738 W

## **Existing Site Conditions**

The project is located within the Mid-Atlantic Coastal Plain eco-region of the Coastal Plain Physiographic Province in the Cape Fear River sub-basin, USGS 8-digit hydrological unit 03030004. The project is located along the Cape Fear River and partially within the Cape Fear River 100-year floodplain. The site consists of approximately 355 acres of land and is developed with an active landfill with supporting treatment facilities and a borrow area. The landfill has been in operation since the 1980s and currently includes two operation landfill units, expected to stay in operation for another 15 years, and two closed facilities. The majority of the project area has been manipulated by the landfill activities, but there are undeveloped forested areas on the southern and eastern section that are flat with the elevation descending on the eastern portion down to separate floodplain terraces as the land approaches the Cape Fear River.

The majority of the undisturbed wetlands within the project area can be classified as forested hardwood flats or headwater wetlands. There are several open water borrow pits located within the wetland areas and throughout the project area. There are 13.73 acres of wetlands and 2,283 linear feet of tributary on the property. Of the 13.73 acres of wetlands on site, 1.65 acres of wetland impact has already occurred. Wetlands where impacts have already occurred are labeled Impact 1-8 on the enclosed Borrow Area Wetland Impacts map.

The Biotic resources surrounding the project area is indicative of a urban/suburban setting consisting mainly of mixed pine/hardwood forests, and developed urban or agricultural areas. Topography is characterized as man-made peaks and man-made depressions associated with the land fill disposal areas and borrow pits respectively and transitions into a more natural landscape, with descending terraces as the land approaches the Cape Fear River. Elevations range from approximately 156 to 42 feet above mean sea level (MSL). The bluff located along the southern bank of the Cape Fear River is high and steep with little to no active floodplain.

There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), Water Supply (WS-II), or 303 (d) listed waters within

1.0 mile of the project area. According to the ARC GIS data for Cumberland County, the site is underlain with Autryville loamy sand (AaA) a moderately well drained soil, Roanoke and Wahee loams (Ro) poorly drained and somewhat poorly drained soils, Roanoke-Urban land complex (Ru) a poorly drained soil and areas of urban land, Wickham fine sandy loam (WmB) a well drained soil and Wickham-Urban land complex (WnB). The western portion of the project area is located within the 100 year flood plain of the Cape Fear River.

### **Applicant's Stated Purpose**

The purpose of this project is to expand the borrow area to provide cover materials for operating Cumberland County's solid landfill for the next 15 years. Cumberland County's existing municipal solid waste (Subtitle D) and construction and demolition landfills are expected to reach their capacity within approximately 15 years.

### **Project Description**

The Cumberland County Ann Street Landfill serves as waste disposal area for the County's municipal partners along with the private hauler community that picks up and delivers waste to the landfill. The County needs to maintain this facility to continue to meet its objective to provide for efficient use of the sanitary landfill and to further the County's efforts in developing future solid waste disposal programs. The existing and proposed borrow areas provide the County with materials needed to efficiently and effectively manage landfill construction and daily solid waste operations. The estimated volume of material needed for additional facility construction, daily cover operations and final cover operations is approximately 1,138,000 cubic yards. In order to facilitate operation of the landfill, excavation of material has occurred and is further proposed for surface mining of soil material for use onsite as landfill cover. Operation of the borrow area has already impacted approximately 1.03 acres of wetlands within the borrow area plus 0.62 acre of wetlands for clearing and construction of the roadways for access. An additional 0.26 acres of wetlands are proposed to be impacted to meet the project purpose. On-site borrow is proposed to be used to the extent practicable with fewer larger borrow pits proposed in order to increase the depth and volume of materials which can be mined. All soils will be loaded and hauled directly to the operating landfill cell.

### **Avoidance and Minimization**

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

In designating the footprint of the established and proposed borrow areas, jurisdictional waters were avoided to the extent practicable in accordance with the Section 404(b) requirements, while providing the needed waste disposal cover materials. Figure A-5 in Appendix A shows the proposed borrow areas relative to the jurisdictional wetlands and streams. Access roads were selected based on having the least impact to wetlands crossed. Borrow area limits generally follow the delineated wetlands. Where the borrow

area impacts the wetlands, the volume of soils is large compared to the area of wetlands impacted. In other words, the smallest area of wetlands is impacted for the greatest soil yield.

Operation of the borrow area has already impacted approximately 1.03 acres of wetlands in the borrow area plus approximately 0.62 acre of wetlands for clearing of the roadways for access. These impacts were quantified by comparing the 1999 delineation wetland boundaries with the limits of disturbance as depicted on the 2013 survey by the areas outside the treelines. These areas are shown on Figure A-4.

An alternatives analysis was conducted to evaluate the County's options for providing landfill cover materials for the projected operational life of the landfill. Results of the alternatives analysis indicate the operational needs of the landfill for cover materials must be met through a combination of on-site borrow and off-site procurement. On-site borrow will be utilized to the extent practicable as the most cost effective, environmentally sustainable, reliable method with the least impact on the City's infrastructure.

Construction of a single large borrow pit greatly increases the depth and volume of materials which can be mined rather than having a mosaic of smaller mining areas. The proposed impacts are the minimum necessary to achieve the landfill borrow materials capacity needed to meet the County's needs as.

Fortunately, on this site, excavation near the edge of wetlands does not appear to be impacting hydrology. This is exemplified by the resilience of an isolated area of wetland with excavation all around it due to the thick clay layer holding incident rainfall. Therefore, impacts are limited to the areas where wetland surfaces are physically removed to lower elevations and do not appear to result in indirect impacts.

Construction of the borrow area expansion will be subject to a NC sediment and erosion Control plan, which will protect downstream surface waters. Construction sequencing will be specified so that all sediment and erosion control measures are in place prior to commencing borrow operations. Limits of disturbance will be shown on the construction plans and enforced during construction. All soils will be loaded and hauled directly to the operating landfill cell. Construction access into jurisdictional waters that are not included in the footprint of the borrow area and for associated sediment ponds will not be allowed.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Cumberland County proposes to purchase two acres of non-riparian wetland mitigation credits from Barra Farms Phase II Wetland Mitigation Bank.

## 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:

- 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 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 February 6, 2014 to:

NCDWR Central Office  
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit  
(USPS mailing address): 1650 Mail Service Center, Raleigh, NC 27699-1650

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

## **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, February 6, 2014. Comments should be submitted to Crystal Amschler, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4170.