



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 9, 2014
Comment Deadline: April 24, 2014
Corps Action ID Number: SAW-2010-01848

The Wilmington District, Corps of Engineers (Corps) received an application from Standard Pacific of the Carolinas, LLC seeking Department of the Army authorization to modify an existing standard permit with additional impacts to 0.0318 acres of jurisdictional riparian wetlands, and 137 linear feet of jurisdictional intermittent stream channel, associated with phases 2, 2c, and 3 of the Salem Village subdivision located in Wake County, North Carolina. Total impacts for the project are 643 linear feet of permanent stream channel impacts, 69 linear feet of temporary stream channel impacts, 0.325 acres of permanent wetland impacts, and 0.057 acres of temporary wetland impacts.

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: Standard Pacific of the Carolinas, LLC
Attn: Grey Methven
1600 Perimeter Park, suite 125
Morrisville, NC 27560

AGENT: Soil and Environmental Consultants, PA
Attn: Bob Zarzecki
8412 Falls of Neuse Rd., suite 104
Raleigh, NC 27615

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 project, Salem Village subdivision, is approximately 195 acres and is bordered to the north and west by South Salem Street, and to the east by Tingen Road, in the Town of Apex, Wake County, North Carolina. Coordinates (in decimal degrees) for the site are 35.7136° North, -78.8647° West. The site is located in the Cape Fear River Basin (8-Digit Cataloging Unit 03030004).

Project Area (acres):	195	Nearest Town:	Apex
Nearest Waterway:	Big Branch	River Basin:	Cape Fear
Latitude and Longitude:	35.7136N, -78.8647W		

Existing Site Conditions

The land use in the immediate area surrounding the project consists primarily of agricultural fields, and forested tracts, and residential homes. The site itself is currently under construction as the Salem Village subdivision.

Applicant's Stated Purpose

As stated by the applicant, the purpose of the project is to complete the construction of the Salem Village subdivision, in order to provide residential housing for the area.

Project Description

The original permitted project includes fill associated with the constructions of road crossings for the Salem Village subdivision as follows. Previously approved authorizations for the Salem Village subdivision included 121 linear of permanent stream channel impacts, 7 linear feet of temporary stream channel impacts, 0.236 acres of permanent wetland impacts, and 0.057 acres of temporary wetland impacts authorized on November 12, 2010. Three bridges were also approved for the Apex Peakway stream crossings in the 2010 authorization. One bridge was determined to be cost prohibitive and the Corps indicated that a Department of the Army (DA) Individual Permit would be required. On October 24, 2012 a DA Individual Permit was issued for permanent placement of fill material into 385 linear feet (lf) of stream channel fill (impact twelve - 148 lf previously permitted but not completed, and impact fourteen - 237 lf of proposed new impacts) and temporarily impact 62 linear feet of unnamed tributaries to Big Branch for the construction of two road crossing, and utility line installation for the Salem Village subdivision. The project would include a section of the Apex Peakway from Tingen Rd. to Salem Street and permanently impact 0.057 acres of wetland from fill for

the construction of road crossings. Total permanent impacts for the project to date are 506 linear feet of permanent stream channel impacts, 69 linear feet of temporary stream channel impacts, 0.293 acres of permanent wetland impacts, and 0.057 acres of temporary wetland impacts.

The applicant is now proposing an additional 137 linear feet of permanent stream channel impacts, and an additional 0.0318 acres of riparian wetland impacts for two additional roads crossing for the final phases 2, 2c, and 3 of the Salem Village subdivision.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Compensatory mitigation requirements for previously permitted impacts have been met. At this time no additional compensatory mitigation has been proposed.

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 may affect, but not likely to adversely 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 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 April 30, 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

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 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, April 24, 2014. Comments should be submitted to James Lastinger, Regulatory Specialist, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 ext 32.