



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: November 5, 2014  
Comment Deadline: November 19, 2014  
Corps Action ID Number: SAW-2011-01571

The Wilmington District, Corps of Engineers (Corps) received an application from United States Navy, Mid-Atlantic Region seeking Department of the Army authorization to impact 4.02 acres of Section 404 jurisdictional wetlands, associated with improving the operational capabilities of its bombing range in Dare 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:** United States Navy  
Navy Mid-Atlantic Region  
Attn: Ms. Elizabeth Nashold  
Code N-45, Regional Environmental Group  
Norfolk, Virginia 23511

**AGENT (if applicable):**

## 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 is located at the Dare County Bombing Range, just west of Highway 264, west of Stumpy Point, in Dare County, North Carolina.

Project Area (acres): 2,109 acres                      Nearest Town: Stumpy Point  
Nearest Waterway: Alligator River              River Basin: Pamlico  
Latitude and Longitude: 35.742680 N, -75.858449 W

## Existing Site Conditions

The Dare County Bombing Range is an all-weather, U.S. Air Force owned weapons range located on the Dare County peninsula in the coastal plain of North Carolina. The Range encompasses 46,621 acres and is utilized jointly by the U.S. Air Force and the U.S. Navy. The project area is located within the bombing zone and due to long term disturbance is maintained in a non-tidal emergent wetland condition. In an undisturbed state, the area would be classified as a North Carolina Wetland Assessment Method Pocosin dominated by loblolly pine (*Pinus taeda*) and pond pine (*Pinus serotina*) and assorted ericaceous understory. The Alligator National Wildlife Refuge borders and nearly encompasses the Dare County Bombing Range.

## Applicant's Stated Purpose

The purpose of the proposed project is to enhance the long-term sustainability of the Navy Dare County Bombing Range and to improve the quality of training that can be provided at the range. The proposed project would allow for more realistic training scenarios to include the use of MLT's, allow for maintenance operations to be completed, enhance range personnel safety and increase Operation Range Clearance (ORC) capabilities. The need for this action is to support and provide range capabilities for training forces ready to deploy worldwide.

## Project Description

The proposed project includes a modification of the previous permit issued in 2011 by removing two previously permitted impact areas and proposing four new impact areas. New impact areas include a gravel road parallel to the existing runway target which will allow for continued maintenance of the runway target and provide for additional target areas. The proposed project would also create a city target (MOU) and turnaround areas at each end of 3,500 Foot Road suitable for use with Moving Land Targets (MLTs).



**Table – 2 Proposed Wetland Impacts**

| <b>Impact Area</b>      | <b>Fill – Square Feet</b> | <b>Fill – Cubic Yards</b> |
|-------------------------|---------------------------|---------------------------|
| Runway Maintenance Road | 99,450                    | 9,207                     |
| City MOU                | 39,950                    | 3,699                     |
| MLT West Turnaround     | 18,230                    | 1,687                     |
| MLT East Turnaround     | 17,500                    | 1,620                     |
| <b>Totals</b>           | <b>175,130</b>            | <b>16,210</b>             |

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The U.S. Navy minimized impact footprint designs to only that required to allow for sufficient space to safely access and maintain the targets and operate the moving land targets (MLT's). In addition, impacts were further minimized by removing two areas (West Laydown Area and Ammo Dump target pad) that were previously permitted from the proposed construction plan. Together these two impact areas totaled 90,060 sqft (2.182 acres) and they will not be constructed.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: In 2011, The Navy purchased 7.434 credits from the Great Dismal Swamp Restoration Bank to offset impacts for target pad and access road improvements. Due to a range management decision, the Navy decided not to construct certain areas resulting in an estimated 2.1 unused credits. For the proposed action, the Navy will use the remaining 2.1 credits and purchase the additional 1.92 credits from the Great Dismal Swamp Restoration 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, not likely to adversely 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 November 19, 2014 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 (NCDWM):**

- 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, November 19, 2014. Comments should be submitted to Josh Pelletier, Washington Regulatory Field Office, 2407 West Fifth Street , Washington, North Carolina 27889, at (910) 251-4605.