



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: June 30, 2015  
Comment Deadline: July 30, 2015  
Corps Action ID Number: SAW-2015-00736

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. Sam Lockridge, Solid Waste Director for Cleveland County, seeking Department of the Army authorization to impact 532 LF of stream and 0.32 AC of wetlands, associated with a landfill expansion in Cleveland 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:** Mr. Sam Lockridge  
Cleveland County  
250 Fielding Road  
Cherryville, North Carolina 28021

**AGENT (if applicable):** Mr. R. Clement Riddle  
ClearWater Environmental Consultants, Inc.  
32 Clayton Street  
Asheville, North Carolina 28801

## 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

The Municipal Solid Waste landfill is located off Fielding Road. To access the site from Asheville, take I-26 East to Exit 108 (US Highway 74 East). Travel on US Highway 74 East for approximately 39 miles. Take a slight left onto West Marion Street and travel approximately 3.3 miles to Cherryville Road. Turn right onto Cherryville Road and travel approximately 4.4 miles

to Pinedale Road. Turn left onto Pinedale Road and continue onto Fielding Road to the Cleveland County Landfill entrance. In general, the project boundary is bordered to the north by Sperlings Road, the east by Cherryville Road, the south by Buffalo Creek, and to the west by New Prospect Church Road.

Project Area (acres):	444	Nearest Town: Cherryville
Nearest Waterway:	Buffalo Creek	River Basin: Santee
Latitude and Longitude:	35.340676 N, -81.470133W	

### **Existing Site Conditions**

Cleveland County owns an 855-acre tract off Fielding Road west of Cherryville, North Carolina. Within this tract, the County operates an 82-acre solid waste disposal landfill. The property is mostly wooded except where past and current landfill operations are taking place. There is a power line right-of-way and old agricultural fields present within the project boundary. A 72-acre portion of the tract has been recently timbered. Landfill operations at this site are designed to take place in six phases over 65.6 years. To date, Phases 1 and 2 have been implemented resulting in the permanent disposal of 4,958,819 cubic yards of solid waste.

Five community types were identified within the project boundary. Each community type is discussed below.

Streams and Riparian Forest - These freshwater habitats include the streambeds and banks and immediate riparian areas of Buffalo Creek, Suck Creek, and unnamed tributaries. Stream channels on site have been effected by past land use with some channels deeply incised. Species observed in the riparian areas include red maple (*Acer rubrum*), yellow poplar (*Liriodendron tulipifera*), and sweetgum (*Liquidambar styraciflua*). Hickory (*Carya* spp.), black walnut (*Juglans nigra*), willow oak (*Quercus phellos*), and black locust (*Robinia pseudoacacia*) were also observed in smaller numbers. Understory species include smaller individuals of flowering dogwood (*Cornus florida*), American holly (*Ilex opaca*), eastern red cedar (*Juniperus virginiana*), Chinese privet (*Ligustrum sinense*), yellow poplar, willow oak, and multiflora rose (*Rosa multiflora*). Herbaceous species observed include spotted wintergreen (*Chimaphila maculata*) and Christmas fern (*Polystichum acrostichoides*).

Some riparian areas have been highly disturbed and are dominated by kudzu (*Pueraria lobata*).

Wetland - The majority of wetlands on the County-owned property are floodplain wetlands adjacent to Suck Creek. The wetland within the Phase 3 landfill footprint is a headwater wetland located in an old stormwater pond and is of poor quality. Species observed in the shrub/scrub wetlands include red maple, river birch (*Betula nigra*), sycamore (*Platanus occidentalis*), black willow, silky dogwood (*Cornus amomum*), privet, elderberry (*Sambucus canadensis*), sedges (*Carex* spp.), jewelweed (*Impatiens capensis*), rushes (*Juncus* spp.), woolgrass (*Scirpus cyperinus*), and cattail (*Typha latifolia*).

Ruderal Corridors - The ruderal habitat consists of road edges and power line rights-of way. It is considered a disturbed and/or transitional community type. There is an existing power line right-of-way (ROW) that runs east-west across the property. Edge species observed includes red maple, redbud (*Cercis canadensis*), eastern red cedar, white pine (*Pinus strobus*), and willow oak. These species and saplings of black locust, yellow poplar, Virginia pine (*Pinus virginiana*), tree of heaven (*Ailanthus altissima*), eastern red cedar, and black cherry (*Prunus serotina*) were observed in the maintained ROW. Herbaceous species observed include pokeweed (*Phytolacca Americana*), Japanese honeysuckle (*Lonicera japonica*), ragweed (*Ambrosia sp.*), lambs quarters (*Chenopodium album*), greenbrier (*Smilax sp.*), blackberry (*Rubus sp.*), broomsedge (*Andropogon virginicus*), goldenrod (*Solidago sp.*), Virginia creeper (*Parthenocissus quinquefolia*), poison ivy (*Toxicodendron radicans*), lespedeza (*Lespedeza sp.*), wingstem (*Verbesina alternifolia*).

Early Successional Field - This habitat includes old abandoned fields dominated by Joe-pye-weed (*Eupatoriadelphus sp.*), pokeweed, ragweed, goldenrod, Russian olive (*Elaeagnus angustifolia*), hog peanut (*Amphicarpaea bracteata*), white clover (*Trifolium repens*), red clover (*Trifolium pretense*), vetch (*Vicia sp.*), microstegium (*Microstegium vimineum*), curled dock (*Rhumex crispus*), bed straw (*Galium aparine*), fescue (*Festuca sp.*), dogfennel (*Eupatorium capillofolium*), Venus' looking glass (*Triodanis perfoliata*), dandelion (*Taraxacum officinale*), and wild geranium (*Geranium maculatum*).

Upland Hardwood Forest - This forested habitat type is slightly drier than the riparian area and makes up the majority of the habitat on-site. Species observed in the overstory include white oak (*Quercus alba*), sourwood (*Oxydendrum arboretum*), yellow poplar, hickory, red maple, sweetgum, black walnut, shortleaf pine (*Pinus echinata*), tree-of-heaven, and Virginia pine. Species observed in the sapling-shrub layer include the over story species and American holly, eastern red cedar, mulberry (*Morus sp.*), box elder (*Acer negundo*), sassafras (*Sassafras albidum*), blackgum (*Nyssa sylvatica*), privet, and Japanese barberry (*Berberis thunbergii*). Species observed in the herbaceous layer include microstegium, Christmas fern, Virginia creeper, yellow wood sorrel (*Oxalis stricta*), ebony spleenwort (*Asplenium platyneuron*), kudzu, muscadine (*Vitis rotundifolia*), Spindle (*Euonymus sp.*), bedstraw (*Galium spp.*), greenbrier, Japanese honeysuckle, crane fly orchid (*Tipularia discolor*), grapefern (*Botrychium spp*), poison ivy, hog peanut, chickweed (*Stellaria media*), spotted wintergreen, violet (*Viola sp.*), yellow root (*Xanthorhiza simplicissima*), southern lady fern (*Athyrium filix-femina*), Indian strawberry (*Potentilla indica*), netted chain fern (*Woodwardia aereolata*), periwinkle (*Vinca major*), partridge berry (*Mitchella repens*), false Solomon's seal (*Maianthemum racemosum*), trumpet creeper (*Campsis radicans*), and running cedar (*Lycopodium digitatum*).

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

The basic project purpose is continued development of the existing landfill. More specifically, the overall project purpose is to expand the existing landfill to increase waste storage capacity in Cleveland County.

## Project Description

Cleveland County is proposing to continue landfill development by expanding into the Phase 3 area of the existing landfill. Phase 3 of the MSW landfill consists of 15-acres within the 82 acre landfill operation and will provide an additional 9.1 years or 1.8 million cubic yards of waste storage capacity. Impacts associated with landfill expansion include the discharge of fill material into two streams 532 linear feet and two wetlands totaling 0.32 acres.

## Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed project is designed in a way to avoid streams and wetlands where practicable while still meeting the project purpose. The tables below summarize avoidance at the site:

-Site Streams	Proposed Impacts	Amount Avoided	Percent Avoided
25,334	532	24,813	97

On-Site Wetlands	Proposed Impacts	Amount Avoided	Percent Avoided
2.11	0.32	1.79	85

Original plans included the borrow pit with a slightly different configuration that would have impacted approximately 100 linear feet of stream. Cleveland County agreed to reconfigure the borrow pit to avoid these impacts.

## Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Cleveland County proposes to mitigate for unavoidable impacts (532 linear feet of stream and 0.32 acres of wetland) at a 1:1 ratio through payment into the North Carolina Division of Mitigation Services DMS in-lieu fee program. By letter dated May 28, 2015, DMS has indicated they are willing to accept payment for impacts associated with development at the site.

## 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 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 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**

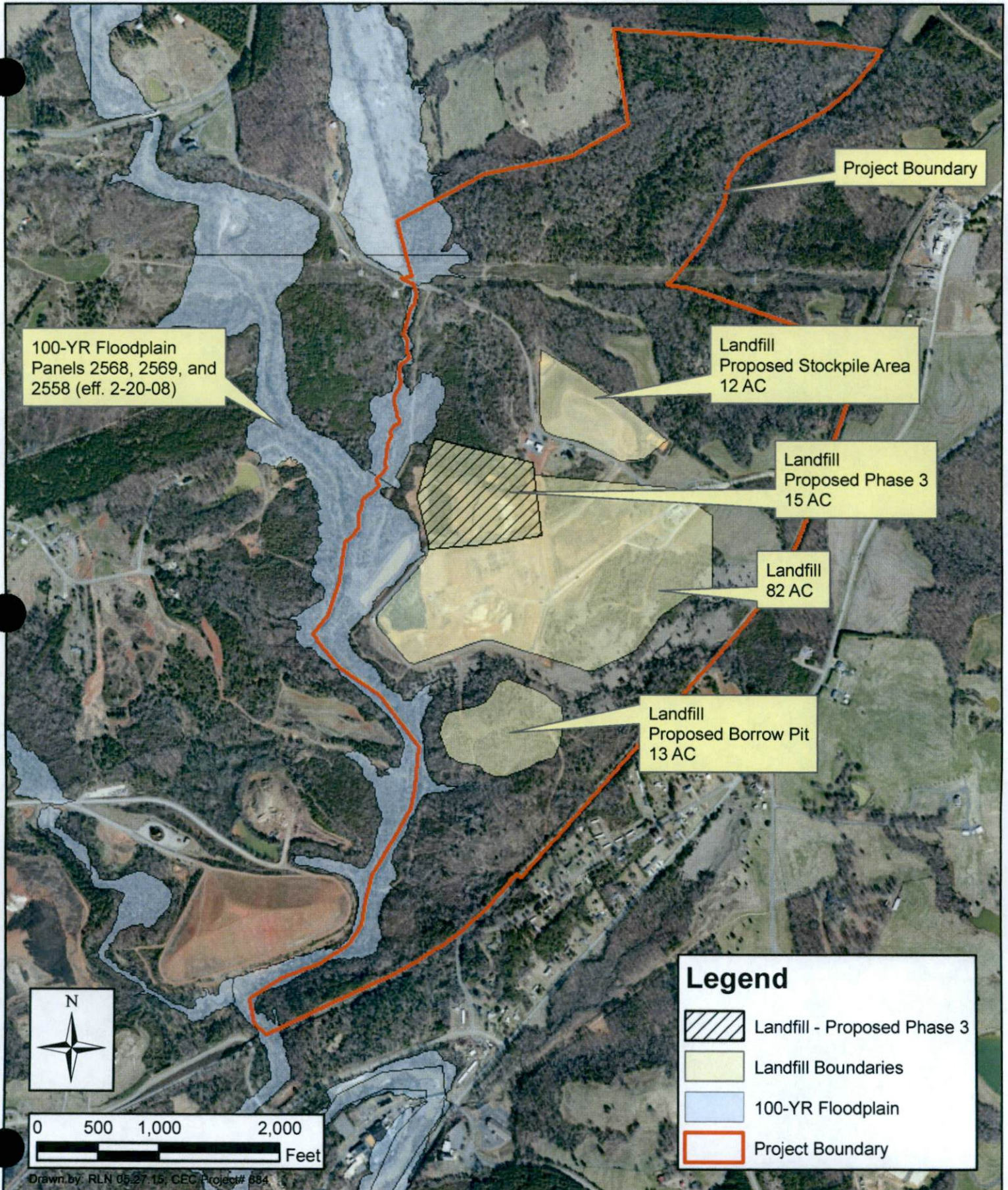
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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 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, July 30, 2015. Comments should be submitted to William Elliott, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801, at (828) 271-7980.



# Cleveland County Landfill Expansion (+/-444 AC)



Cleveland County,  
North Carolina

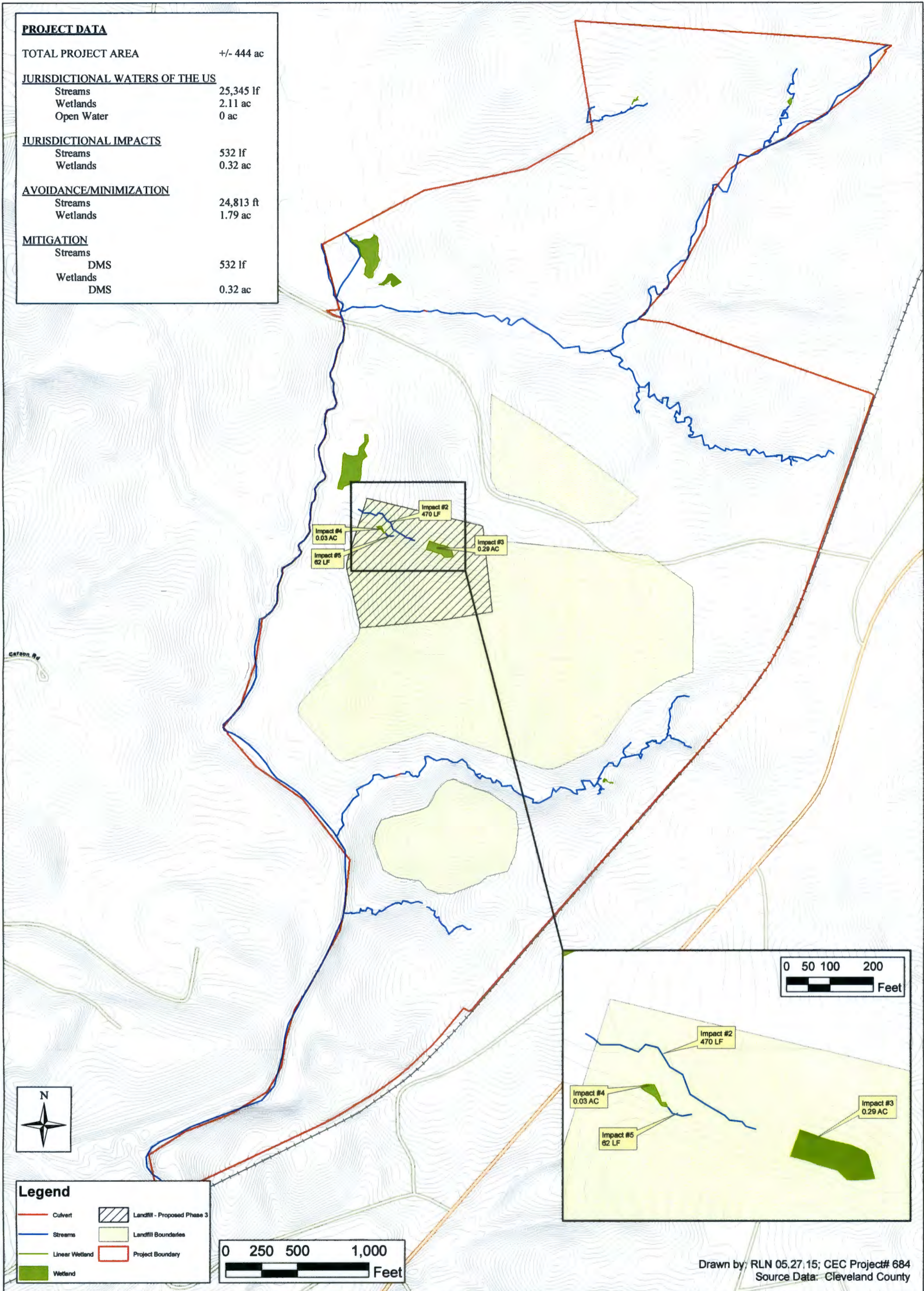
**ClearWater**  
224 South Grove Street, Suite F  
Hendersonville, North Carolina 28792

100-YR Floodplain Map  
NC Flood Maps  
Figure 6

# Cleveland County Lanfill Expansion (+/- 444 AC)

**PROJECT DATA**

TOTAL PROJECT AREA	+/- 444 ac
<b>JURISDICTIONAL WATERS OF THE US</b>	
Streams	25,345 lf
Wetlands	2.11 ac
Open Water	0 ac
<b>JURISDICTIONAL IMPACTS</b>	
Streams	532 lf
Wetlands	0.32 ac
<b>AVOIDANCE/MINIMIZATION</b>	
Streams	24,813 ft
Wetlands	1.79 ac
<b>MITIGATION</b>	
Streams	
DMS	532 lf
Wetlands	
DMS	0.32 ac



**Legend**

- Culvert
- Streams
- Linear Wetland
- Wetland
- Landfill - Proposed Phase 3
- Landfill Boundaries
- Project Boundary

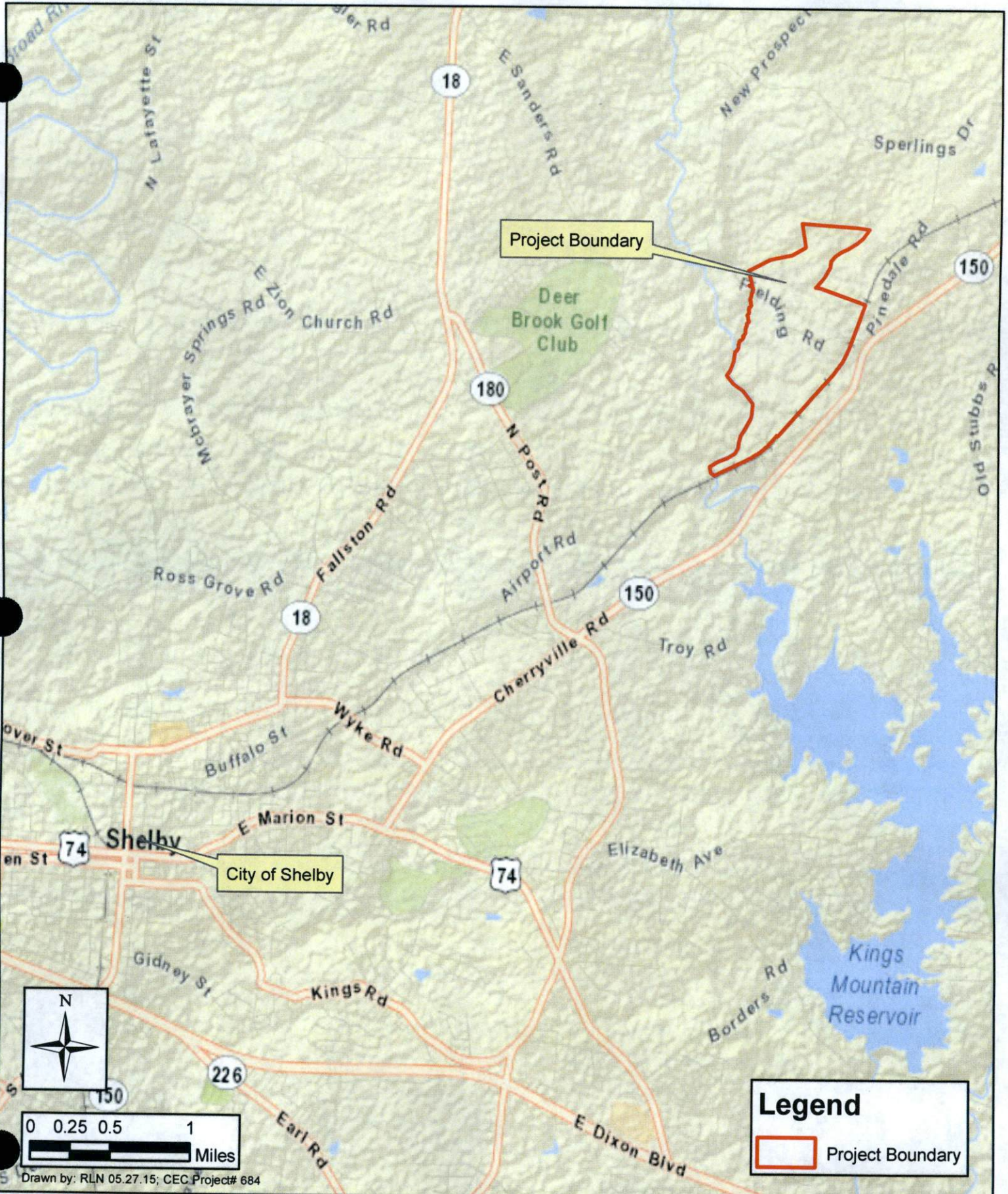
Drawn by: RLN 05.27.15; CEC Project# 684  
Source Data: Cleveland County

Cleveland County,  
North Carolina

**ClearWater**  
224 South Grove Street, Suite F  
Hendersonville, North Carolina 28792

Site Plan and Impact Map  
Figure 5

# Cleveland County Landfill Expansion (+/-444 AC)



Drawn by: RLN 05.27.15; CEC Project# 684

Cleveland County,  
North Carolina

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Site Vicinity  
Figure 2