

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Action ID No. 200220234

July 15, 2004

PUBLIC NOTICE

MR. JOEL BROWER, TOWN OF SILER CITY, POST OFFICE BOX 769, SILER CITY, NORTH CAROLINA 27344-0769 HAS REQUESTED A DEPARTMENT OF THE ARMY (DA) PERMIT TO AUTHORIZE THE DISCHARGE OF FILL INTO THE JURISDICTIONAL WATERS OF ROCKY RIVER ASSOCIATED WITH THE PROPOSED CONSTRUCTION / EXPANSION OF THE EXISTING ROCKY RIVER LOWER RESERVOIR LOCATED OFF OF PINEY GROVE CHURCH ROAD (SR 1362), NORTH OF THE TOWN OF SILER CITY, CHATHAM COUNTY, NORTH CAROLINA.

The following description of the work is taken from data provided by the applicant and from observations made during a site visit by a representative of the Corps of Engineers. The proposed project consists of the construction of a new dam on the Rocky River to expand the existing 24.4 acre Rocky River Lower Reservoir. The new dam would be a roller compacted structure made from approximately 750,000 cubic yards of concrete located approximately 105 feet downstream of the existing Lower Reservoir dam. The surface area footprint of the new dam would impact approximately 0.14 acre of the jurisdictional open waters of the Rocky River. The expanded Lower Reservoir would impound 162.5 acres (including the existing 24.4 acres) and the project would include an additional 117.3 acres for a 100 foot-wide buffer around the reservoir. The drainage area above the proposed dam site, including an existing Upper Reservoir drainage area, is approximately 53.8 square miles (sq. mi.). In order to increase the draft rate of the Lower Reservoir to 6.0 MGD (an increase of 2.0 MGD), the normal water level would need to be raised 12.3 feet above the spillway crest of the existing dam. The elevation of the proposed pool would be 540.3 feet above MSL and would impound approximately 1,102 acre-feet of water. Plans submitted with the permit request show impacts to the jurisdictional waters of the Rocky River that include inundation of the existing 24.4 acres / 11,944 linear foot pool, loss of 10.7 acres of forested wetlands, inundation of approximately 12,990 linear feet (approximately 5.72 acres) of perennial stream channel, inundation of approximately 1,926 linear feet (approximately 0.41 acre) of intermittent stream channel, and fill of approximately 0.14 acre of the open waters of Rocky River included in the new dam construction. The total includes impacts to 24.54 acres (11,944 linear feet) of open waters (including 0.14 acre of fill), 10.7 acres of forested wetlands, and 14,916 linear feet (6.13 acres) of stream channel. The project property and the surrounding watershed consist of agricultural land, forest, and rural development. The site consists of open farm fields and pasture with wooded stream bottom / drainage-ways. Past poor farming practices and cattle having open access to stream channels have severally degraded the stream channels and wetlands within the proposed project property. Lacys Creek and Mud

Lick Creek drain into the Rocky River within the project area. Several unnamed tributaries located on the east and west side slopes of the project site provide direct discharge of surface runoff into the proposed Lower Reservoir. Several of the drainages have ponds in their upper reaches.

The project's purpose and need is to develop a safe and dependable water supply for the Town of Siler City that will satisfy the projected water demand for a planning period of approximately 20 years. In the recent past, the Town of Siler City has experienced water shortages and based on projected growth and increases in water demand, water shortages are predicted to increase in frequency and severity in the future. The assurance of an adequate water supply is essential to serve the existing population and industries and for continued economic growth. The Town of Siler City seeks to establish a water supply to provide an additional 2.0 MGD to meet its projected needs through 2030.

This proposed project was first put on public notice on December 28, 2001, with the above description of impacts. During that public notice period the Wilmington District Regulatory Division received no comment from non-government groups or the general public as a whole. The public notice received no comment from the EPA. The US Fish and Wildlife Service (FWS) requested a 30-day extension to the open comment period, which was granted. However, the FWS did not provide any comments during the 30-day extension. During the public notice comment period the North Carolina state agencies (state) were actively reviewing and processing documentation in compliance with their State Environmental Policy Act (SEPA). As a result of this, the state deferred their comments and did not comment during the public notice period. Since the initial public notice of December 28, 2001, plans for the project have been refined. The refined plans show project construction would result in the loss of 9.19 acres of jurisdictional wetlands, inundation of 7,916 linear feet of perennial stream channel, 1,588 linear feet of intermittent stream channel, and 3,242 linear feet of ephemeral stream channel. On March 18, 2002, staff from the Raleigh Regulatory Field Office conducted additional site inspections of the project site. During these inspections it was determined that the stream channels recorded as ephemeral were either surface-run-off ditches or erosion gullies that formed by surface run-off. Therefore, the ephemeral channels were determined to be non-jurisdictional and could not be counted as impacts requiring Department of the Army (DA) permitting. As a result of these inspections, it was determined that the project would result in impacts to approximately 9,504 linear feet of jurisdictional stream channel. Also during the March 18, 2002, field inspections, it was determined that of the 9.19 acres of wetlands that the project would impact approximately 1.52 acres are isolated wetlands leaving 7.67 acres of jurisdictional wetlands subject to requirements of DA permitting. However, it should be noted that these isolated wetlands are still subject to state regulations.

For the purpose of this public notice, comments are being requested for the proposed refined project plan and the applicants detailed draft mitigation plan. A copy of this plan can be viewed on our public notice web page at <http://www.saw.usace.army.mil>. For those who do not have access to the internet, please contact John Thomas at the Raleigh Regulatory Field at (919) 876-8441 ext. 25 and arrangements will be made to provide copies on request.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this site is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer has determined, based on a review of data furnished by the applicant and onsite observation, that the activity will not affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all those factors, which become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof.

Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore 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 placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agencies' 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; 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.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), Wetland/401 Unit, 1621 Mail Service Center, Raleigh, North Carolina 27699-1621, on or before August 10, 2004, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. John Thomas, until 4:15 p.m., August 17, 2004, or telephone (919) 876-8441, Extension 25.