



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: 26 April 2005  
Comment Deadline: 26 May 2005  
Corps Action ID #: 199700289

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. 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 [www.saw.usace.army.mil/wetlands](http://www.saw.usace.army.mil/wetlands)

**Applicant:** Yadkin Soil & Water Conservation District  
Attn: Mr. Lenuel Chamberlain  
Post Office Box 8  
Yadkinville, North Carolina 27055

**Authority** Section 404 of the Clean Water Act

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures Section 404 of the Clean Water Act.

## Location

North of SR 1314, west of SR 1330, and south of SRs 1333 and 1337, approximately 4 miles west of Yadkinville, Yadkin County, North Carolina.

## Existing Site Conditions

On July 27, 1998, the Department of the Army (DA) issued an individual permit to Yadkin Soil and Water Conservation District for the discharge of fill material into South Deep Creek to facilitate the construction of Structure 5D. The original DA authorization expired on July 27, 2001, was extended three times on a one-year basis due to a lack of funding. Subsequently, Yadkin Soil & Water Conservation District submitted a fourth request on October 21, 2004, requesting a permit extension for an additional year. In the initial permit request, the applicant proposed to offset unavoidable wetland impacts by restoring wetland hydrology and revegetating a 16.8-acre prior converted wetland agricultural field, yet no stream mitigation was proposed for the 15,000 linear feet of stream channel impacts since stream mitigation was not required for flooding impacts at the time of permit issuance. However, since the permit's initial issuance, the Wilmington District provided guidance in April 2003 pertaining to stream mitigation. Accordingly,

we determined to grant a permit extension on December 20, 2004, to the Yadkin Soil & Water Conservation District until July 31, 2005, subject to the following additional special conditions:

1. By no later than July 1, 2005, the permittee shall quantify the extent of the stream channel impacts associated with Structure 5D, and develop and finalize a mitigation plan (the "Revised Final Mitigation Plan") to fully compensate for all unavoidable stream channel impacts.
2. The permittee shall do no work in waters of the United States without written confirmation from the Corps that the Revised Final Mitigation Plan has been approved.

Subsequently, in January 2005, representatives from the Corps, the Natural Resources Conservation Service, Yadkin County Soil and Water Conservation District reviewed the streams to be impacted by the project. It was determined that in addition to the 10,000 linear feet of South Deep Creek to be either filled (57 feet for the dam) or flooded, an additional 5,000 linear feet of perennial and intermittent streams showing evidence of important aquatic function would be flooded by the proposed project.

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

While the primary project purpose of Structure 5D is to provide flood control and long-term municipal/industrial water supply for Yadkin County, the purpose of this public notice is to address stream mitigation necessary to compensate for the unavoidable stream channel impacts associated with the project. Furthermore, since most PL-566 projects are installed in several phases over a number of years and with federal funding, prioritized for the military efforts in the Middle East and to homeland security, the applicant requests that the permit be granted for 12 years. This would provide adequate time for the sponsors to secure the needed federal funds, develop contract specifications, award contracts, and complete construction in phases. This public notice does not provide the opportunity to comment on other alternatives that may be present since the original authorization.

### **Project Description**

Based upon the January 2005 site inspections, the applicant has identified 5,100 linear feet of tributaries for Level II Enhancement (April 2003 Stream Mitigation Guidelines), which would include a 100-foot wide buffer. This would be accomplished on two properties, with one having 3,600 linear feet and the other having 1,500 linear feet of enhancement opportunity. Also, the applicant proposes to establish a 100-foot wide buffer on 23,400 linear feet of tributaries and 2,000 linear feet of South Deep Creek for preservation.

If the sponsors are unable to provide a 100-foot wide buffer in the upper reaches of the impoundment due to land slope and other considerations, the buffer would be widened

immediately downstream of the construction to account for the needed square footage of buffer, resulting in a total of 140 acres of forested riparian buffer under conservation easement. The applicant also proposes a 100-foot wide buffer area around the 25,500 linear feet of shoreline, bordering the proposed impoundment, totaling 58.5 acres.

Copies of the conceptual mitigation plan can be either obtained or viewed at the U.S. Army Corps of Engineers, Wilmington District, Raleigh Field Office, 6508 Falls of Neuse Road, Suite 120, Raleigh, North Carolina 27615.

### **Other Required Authorizations**

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Mr. John Hennessy (NC Department of Transportation projects) or Ms Cyndi Karoly (all other projects) by May 17, 2005.

### **Cultural Resources**

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

### **Endangered Species**

The Corps has 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 has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

## **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 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 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.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, May 26, 2005. Comments should be submitted to Mrs. Jean B. Manuele at (919) 876-8441, Ext. 24.