



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: February 23, 2006
Comment Deadline: March 24, 2006
Corps Action ID #: 200610491

The Wilmington District, Corps of Engineers (Corps) has received an application from **Jimmy Ferebee** seeking Department of the Army authorization to impact **325 linear feet of jurisdictional waters** associated with **construction of a single-family residential housing development adjacent to Knobbs Creek near the intersection of Fifth and Ward Streets in Elizabeth City in Pasquotank, 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 www.saw.usace.army.mil/wetlands

Applicant: Jimmy Ferebee
Post Office Box 138
Shawboro, NC 27973

AGENT (if applicable): Doug Dorman, Atlantic Environmental Consultants, LLC
4812 Covered Bridge Road
Kitty Hawk, NC 27949

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

Location

The project area is approximately 1.01 acres containing 325 linear feet of jurisdictional waters located in a unnamed tributary associated with Knobbs Creek, a tributary to the Pasquotank River, off of US Highway 17, on the corner of Ward Street and 5th Street, in Elizabeth City, Pasquotank County, North Carolina. (36.3075N, 76.2169W)

Existing Site Conditions

The site is currently undeveloped lot vegetated with various upland grasses containing a 12' x 325' jurisdictional water that bisects the property. Vegetation in the project area includes black willow, cattails, red maple and smartweed.

Applicant's Stated Purpose

The purpose for requesting a permit is to relocate the existing wetland feature to another location on the subject property. The current feature location makes the property unusable for residential development because it bisects the property.

Project Description

The project would include the filling of section 404 waters. Fill is necessary to use for the filling of the existing feature for the development of single-family residences. To relocate the existing feature approximately 3, 873 square feet of fill material will be used. The feature will be filled and graded to match the elevation of the surrounding high ground area. The fill material will come from the construction of the new feature on the edge of the property. The jurisdictional waters will be relocated to the northern property line and will maintain the hydrologic connection between the upstream waters and wetlands adjacent to Knobbs Creek.

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 March 23, 2006.

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will 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 can not issue a permit for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management (NCDCM), and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

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 of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate 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.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, March 24, 2006. Comments should be submitted to Josh Pelletier, Washington Regulatory Field Office, US Army Corps of Engineers, Post Office Box 1000, Washington, North Carolina 27889, or telephone (252) 975-1616 extension 34.

