



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: 5 July 2007
Comment Deadline: 6 August 2007
Corps Action ID #: 2007-1539-303

The Wilmington District, U.S. Army Corps of Engineers has received an application from Donald Wayne Miles seeking Department of the Army authorization to impact approximately 1,000 linear feet of stream channel and 0.05 acre of wetlands associated with the construction of a dam for a recreational/aesthetic pond to service a residential development near Sparta, Alleghany 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 www.saw.usace.army.mil/wetlands

Applicant: Mr. Donald Wayne Miles
10806 US Hwy 21 South
POB 299
Roaring Gap, North Carolina 28668

Authority

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

Location

The proposed project is located on the west side of Woodruff Lane, southeast of Sparta, Alleghany County, North Carolina (36.43046°N, 81.02290°W). The site contains wetlands and stream channels with indicators of ordinary high water marks that are tributaries to Brush Creek in the New River Basin. The New River ultimately flows to the Atlantic Ocean through the Gulf of Mexico.

Existing Site Conditions

The site is approximately 80 acres in size in which a majority is forested. Approximately half of the site has been planted with evergreens associated with silvicultural practices. A portion of the forested area in the northeast portion of the site is planted with approximately 20 year old evergreens that were never harvested. A perennial stream channel is located in the northeast

portion of the site that is an unnamed tributary to Brush Creek. Approximately 2,000 linear feet of this perennial channel is located on the property. The perennial stream channel is considered good quality with stable bed/banks, scattered riffle/pool complexes, and presence of aquatic life. The riparian buffer along a majority of the east side of the channel has been disturbed during silvicultural practices. Approximately 0.05 acre of wetlands is located adjacent to the perennial channel near its confluence with Woodruff Road. This wetland is located in a cleared/pasture area that is dominated by herbaceous vegetation with groundwater as its main source of hydrology. Approximately 700 linear feet of Brush Creek is located near the southern boundary of the property.

Applicant's Stated Purpose

The purpose of the proposed work as described by the applicant is to construct an earthen embankment dam to create a pond that will serve as an amenity for a proposed 34-lot residential development.

Project Description

The applicant is proposing to impact approximately 1,000 linear feet of the unnamed perennial channel in the northeast portion of the property. Approximately 900 linear feet will be impacted by flooding with an additional 100 linear feet of impact associated with the construction of the dam. The applicant is proposing to use the dam as road access in the development. The residential development will consist of 34 low density lots in addition to approximately 20 acres of common/open space. The applicant currently does not have a mitigation plan.

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 combined with appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality 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), 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260 Attention: Ms Cyndi Karoly by August 6, 2007.

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

For instances in which we have sufficient information to make a "no-effect" determination, 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

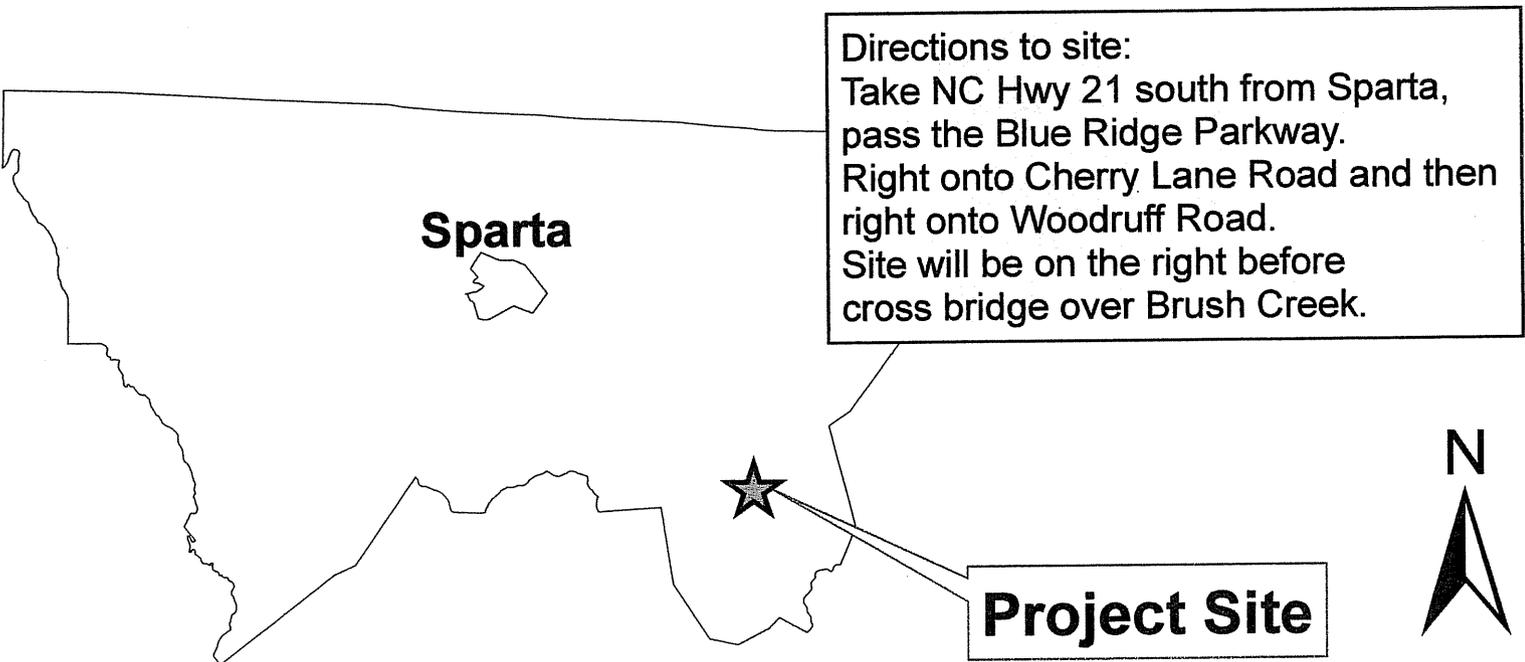
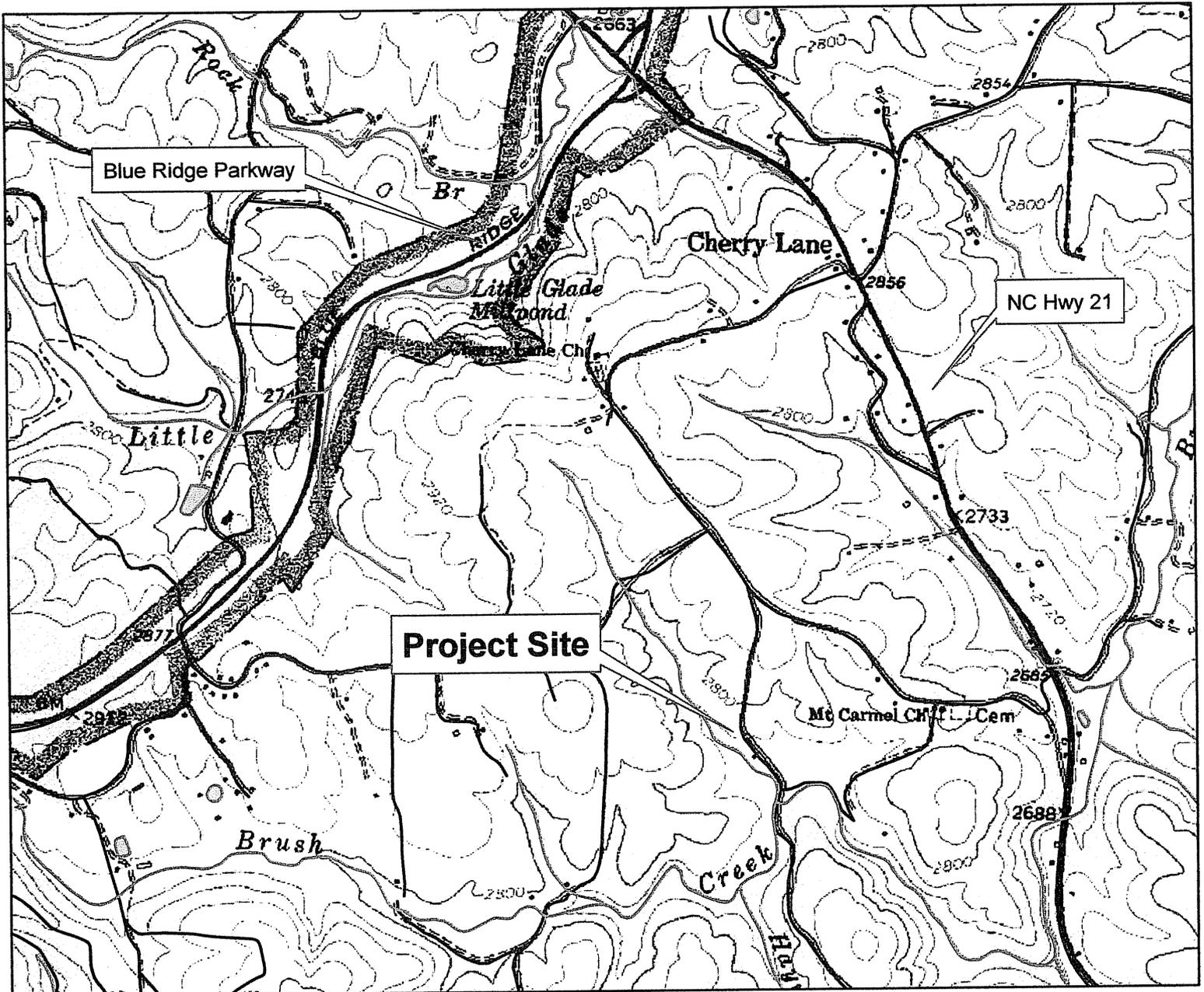
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably 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, August 6, 2007. Comments should be submitted to Amanda Jones, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801.



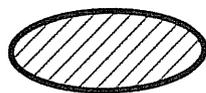
Impact Locations



Legend



Property Line (approximate)



Pond Location



Dam Location

AID 2007-1539-303



