



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: April 30, 2007  
Comment Deadline: May 30, 2007  
Corps ORM ID: SAW-2007-459-125  
Corps Docket Number: COE-2007-0011

The Wilmington District, Corps of Engineers (Corps) has received an application from the United States Marine Corps seeking Department of the Army authorization to establish a Danger Zone within the waters of Hancock Creek and the Neuse River associated with an existing Rifle Range located within the Marine Corps Air Station Cherry Point near the City of Havelock in Craven 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](http://www.saw.usace.army.mil/wetlands)

**Applicant:** United States Marine Corps  
Marine Corps Air Station  
PSC Box 8003  
Cherry Point, North Carolina 28533-0003

## Authority

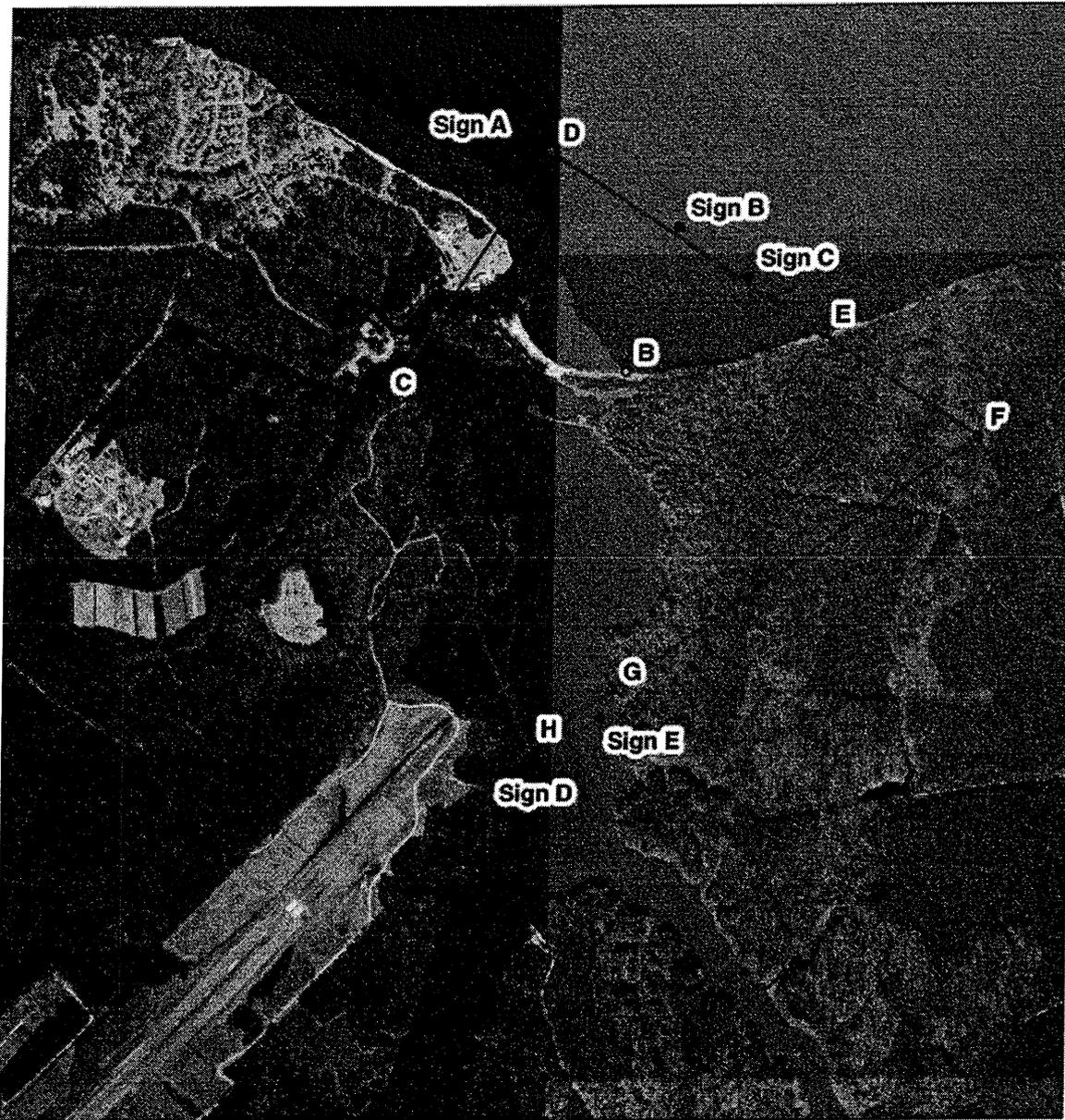
The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 10 of the Rivers and Harbors Act of 1899, Section 7 of the Rivers and Harbors Act of 1917, Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act, and Chapter XIX of the Army Appropriations Act of 1919.

## Location

Marine Corps Air Station (MCAS) Cherry Point is located along the Neuse River near the City of Havelock in Craven County, North Carolina. The proposed Danger Zone is designated by a range fan that includes the existing Rifle Range and waters within Hancock Creek and the Neuse River. Location map and coordinates are provided below.

# MCAS Cherry Point Proposed Danger Area 33 CFR Ch. II Sect 334.430

Map Scale = 1:20,000



This map was produced on October 27, 2006  
by Denise Smith, GIS Manager,  
Facilities Systems Services Office Bldg 400.  
Phone #252.466.4524.

TO BE USED FOR REFERENCE ONLY.  
FOR OFFICIAL USE ONLY.

File name: CFR Proposed Danger Area

### Legend

- Proposed Danger Area
- Marine Restriction Area

DMS and DD Positions for 33 CFR Ch. II §334.430 Restricted Area  
and Proposed Danger Zone

Positions A and B listed below and the area designated in yellow depicts the approximate points and area contained described in 33 CFR Ch. II §334.430.

<u>Position</u>	<u>DMS (LAT/LONG)</u>	<u>DD (LAT/LONG)</u>
A	34° 57' 55.08"N 76° 54' 53.31"W	34.965300° -76.914808°
Current West side of CFR on the Neuse River.		
B	34° 56' 09.10"N 76° 50' 57.12"W	34.935861° -76.849200°
Current East side of CFR on the Neuse River.		

DMS and DD Positions for the requested Danger Zone

Positions C through H listed below provide the proposed danger zone coordinates for establishing the danger zone.

<u>Position</u>	<u>DMS (LAT/LONG)</u>	<u>DD (LAT/LONG)</u>
C	34° 56' 06.40"N 76° 51' 32.68"W	34.935111° -76.859078°
D	34° 56' 35.79"N 76° 51' 07.81"W	34.943275° -76.852169°
E	34° 56' 13.15"N 76° 50' 28.31"W	34.936986° -76.841197°
F	34° 56' 00.00"N 76° 50' 06.00"W	34.933382° -76.835081°
G	34° 55' 30.93"N 76° 50' 59.51"W	34.925258° -76.849864°
H	34° 55' 24.33"N 76° 51' 11.60"W	34.923425° -76.853222°

### DMS and DD Positions for Day Boards

Signs A through E locations are provided for the proposed danger zone. These signs are pending an installation contract under authority of the U.S. Coast Guard as private aids to navigation and approved by the North Carolina Division of Coastal Management. After the establishment/amendment of this CFR for the proposed danger zone these signs will become permanent structures under the U.S. Coast Guard.

<u>Signs</u>	<u>Degree/Minute/Second</u>	<u>Decimal Degree</u>
(A)	34° 56' 39.01"N 76° 51' 17.28"W	34.944169° -76.854800°
(B)	34° 56' 26.29"N 76° 51' 00.39"W	34.940636° -76.850108°
(C)	34° 56' 20.03"N 76° 50' 39.04"W	34.938897° -76.844178°
(D)	34° 55' 22.15"N 76° 51' 11.39"W	34.922819° -76.853164°
(E)	34° 55' 27.73"N 76° 51' 01.13"W	34.924369° -76.850314°

### **Existing Site Conditions**

The site in this instance is defined by the range fan resulting from operations at the MCAS Cherry Point rifle range. Underlying this fan are both upland areas owned by MCAS Cherry Point and public trust waterways including the Neuse River and Hancock Creek. The upland areas include forested wetlands, creeks, forested uplands, airfield and a small number of administrative buildings. The forested areas are professionally managed for timber and other natural resources by installation staff. Additionally, a small area of Croatan National Forest property lies under the fan. Several miles of the northern portion of the Neusiok trail lie underneath the fan.

The Neuse River has a surface water quality designation of SB SW NSW, and Hancock Creek of SC SW NSW. The North Carolina Wildlife Resources Commission manages a boat ramp on Hancock Creek, approximately 0.4 miles upstream from the edge of the surface danger fan.

No historic properties are at risk from the proposed activity. There are no historic structures or areas within the surface danger zone.

No endangered species are at risk from the proposed activity. The US Fish and Wildlife Service list the following species (USFWS Ecological Services Website for NC, accessed Dec 2006) for Craven County: American alligator (*Alligator mississippiensis*) bald eagle

(*Haliaeetus leucocephalus*), West Indian manatee (*Trichechus manatus*), leatherback sea turtle (*Dermochelys coriacea*), red-cockaded woodpecker (*Picoides borealis*), and sensitive joint vetch (*Aeschynomene virginica*). Of these species the American alligator, bald eagle and red-cockaded woodpecker are most likely to occur in the action area. For all species the likelihood of impacts, literally an impact from a fired round, is made extremely remote by the precautions in place at the range. These precautions include a 25' high soil berm that runs the length of the firing positions. Areas downrange are forested in mature timber, so a portion of the bullets that are not captured in the berm are intercepted in the trees.

Hancock Creek supports a healthy population of alligators and active nesting. However, these animals occur in and around the water and while the surface danger zone does include these areas the waters of Hancock Creek the statistical likelihood of an alligator being struck by a stray round fired from the rifle range is extremely remote.

MCAS Cherry Point has one known bald eagle nest approximately 3 miles from the rifle range itself. Bald eagles have been observed flying in the vicinity of the airfield and would certainly be expected to occasionally fly over and forage in the waters underlying the surface danger fan. While the possibility that a bald eagle would get struck by a bullet exists, it is extremely remote. There have been no known occurrences of any type of avian mortality or injury from rifle range operations at MCAS Cherry Point.

There are no red-cockaded woodpecker clusters in the forests underlying the fan, either on MCAS Cherry Point property or the Croatan National Forest. Nor are there clusters within a half mile of the fan, and therefore use of these areas for foraging is unlikely.

No soil disturbance would result from the proposed action. Therefore there is no possibility for affecting the sensitive joint vetch.

The West Indian Manatee and the leatherback sea turtle are not likely to occur in the waters around MCAS Cherry Point. Leatherback sea turtles are a pelagic species and are unlikely to occur in the waters of the Neuse and Hancock Creek. MCAS Cherry Point has no suitable nesting area for sea turtles. Impacts to aquatic species of any nature are unexpected due to the nature of the proposed action as described above.

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

Marine Corps Air Station (MCAS) Cherry Point requests the establishment of a danger zone via 33 CFR Ch. II Sect. 334.4.

### **Project Description**

The Corps of Engineers is proposing to amend its regulations to designate an existing rifle range as a danger zone. The military exercise area is located within the Rifle Range of Marine Corps Air Station Cherry Point, North Carolina, along the Neuse River. The danger zone will only be activated by the Marine Corps Air Station Cherry Point during

range operational hours. The Marine Corps will advise residents in the vicinity of the range fan thus ensuring their safety by alerting them to temporary potential hazardous conditions which may exist as a result of small arms exercises. There will be no change in the use of the existing exercise area. The area, however, needs to be marked on navigation charts to insure security and safety for the public. Entry points into the danger zone will be prominently marked with signage indicating the boundary of the danger zone. The placement of aids to navigation and regulatory markers will be installed in accordance with the requirements of the United States Coast Guard. If the proposed signage exceeds nationwide permit and/or regional general permit conditions, the Commander, United States Marine Corps, Marine Corps Air Station Cherry Point, North Carolina will seek additional Department of the Army authorizations.

### **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 30, 2007

The applicant has certified that the proposed work 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 is, by this notice, forwarding this certification to the North Carolina Division of Coastal Management (NCDCM) and requesting its concurrence or objection. Generally, the Corps will not issue a Department of the Army (DA) permit until 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, May 30, 2007. Comments should be submitted to Mr. Scott Jones or Ms. Tracey Wheeler at the Washington Regulatory Field Office, Post Office Box 1000, Washington, North Carolina 27889.