



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: March 7, 2014
Comment Deadline: April 6, 2014
Corps Action ID Number: SAW-2009-01281

The Wilmington District, Corps of Engineers (Corps) received an application from Mr. William Lane seeking Department of the Army authorization to fill 0.25 acre of wetland within the floodplain of Little River, associated with a commercial development in Goldsboro, Wayne 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

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: Mr. William Lane
P.O. Box 1179
Goldsboro, North Carolina 27533
919-736-1937

AGENT (if applicable): Mr. Ethan Virts
Timmons Group, Inc.
1001 Boulders Parkway, Suite 300
Richmond, VA 23225
804-200-6414

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: From the intersection of I-795 and Highway 70, go west on Highway 70 for approximately 1.1 miles. The site is located adjacent to Highway 70 on the north (right) side of the highway (Figure 1).

Project Area (acres): 12.2 Nearest Town: Goldsboro
Nearest Waterway: Little River River Basin: Neuse River
Latitude and Longitude: 35.406624°N, -78.025276°W

Existing Site Conditions

The site is an undeveloped lot with a mix of shrub-scrub and hardwoods and maintained grassy areas. Commercial developments border the site to the east and west, Highway 70 to the south, and agriculture to the north. An existing 3 acre stormwater retention pond was constructed in uplands with a dirt access road to the east of the pond. An unnamed, jurisdictional tributary to Little River runs along the property boundary by Highway 70, and 0.43 acres of palustrine shrub-scrub wetland lies west of the pond. The remaining acreage is either forested or maintained upland (Figure 2). The site is located within the 100 year floodplain; therefore, the project is not eligible for a Nationwide Permit.

Applicant's Stated Purpose

To extend the fill area located by Highway 70 in order to create a buildable lot capable of supporting a viable commercial development.

Project Description

Due to site slopes and configuration, the available upland area is not large enough to accommodate the proposed development; therefore, clean soil or other approved inert fill material will be used to grade the property to a level capable of supporting a commercial development. The project proposes to impact 0.25 acres of 0.43 acres of palustrine shrub-scrub wetland in conjunction with the available upland in an effort to reduce wetland impacts (Figure 3). Onsite wetlands were delineated by the COE and a jurisdictional determination was issued on July 9, 2009.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: In order to accommodate the need and goal of the proposed project, permanent impacts to PSS wetlands are unavoidable and necessary to complete the proposed work. The proposed fill placement is located adjacent to the existing upland area onsite in order to maximize the buildable lot size. Placement of the fill at another location on the property, would require greater impact to jurisdictional features and yield less developable upland area due to existing site conditions. Construction access to the proposed fill area will be accomplished by utilizing the existing roads and upland area. No permanent or temporary jurisdictional impacts will

be required for Site access. Of the 0.43 acres of PSS wetlands located on site, only 0.25 acres are proposed for impacts.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Compensatory mitigation for unavoidable impacts to 0.25 acres of PSS wetlands will be acquired from the Pancho Mitigation Bank located in Hydrologic Unit Code 03020201. The 0.25 acres of PSS wetland impact will be mitigated at a 2:1 ratio, totaling a purchase of 0.5 acres of wetland credit.

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service. In accordance with State and County erosion and sediment control law, erosion and sediment control measures will be utilized in order to prevent sediment runoff across the site.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).

- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Endangered Species

Pursuant to the Endangered Species Act of 1973, the Corps 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 determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by April 3, 2014 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1650 Mail Service Center, Raleigh, NC 27699-1650

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDCM):

- The application did not include a certification that the proposed work complies with and would 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 cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the NCDCM.
- Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

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

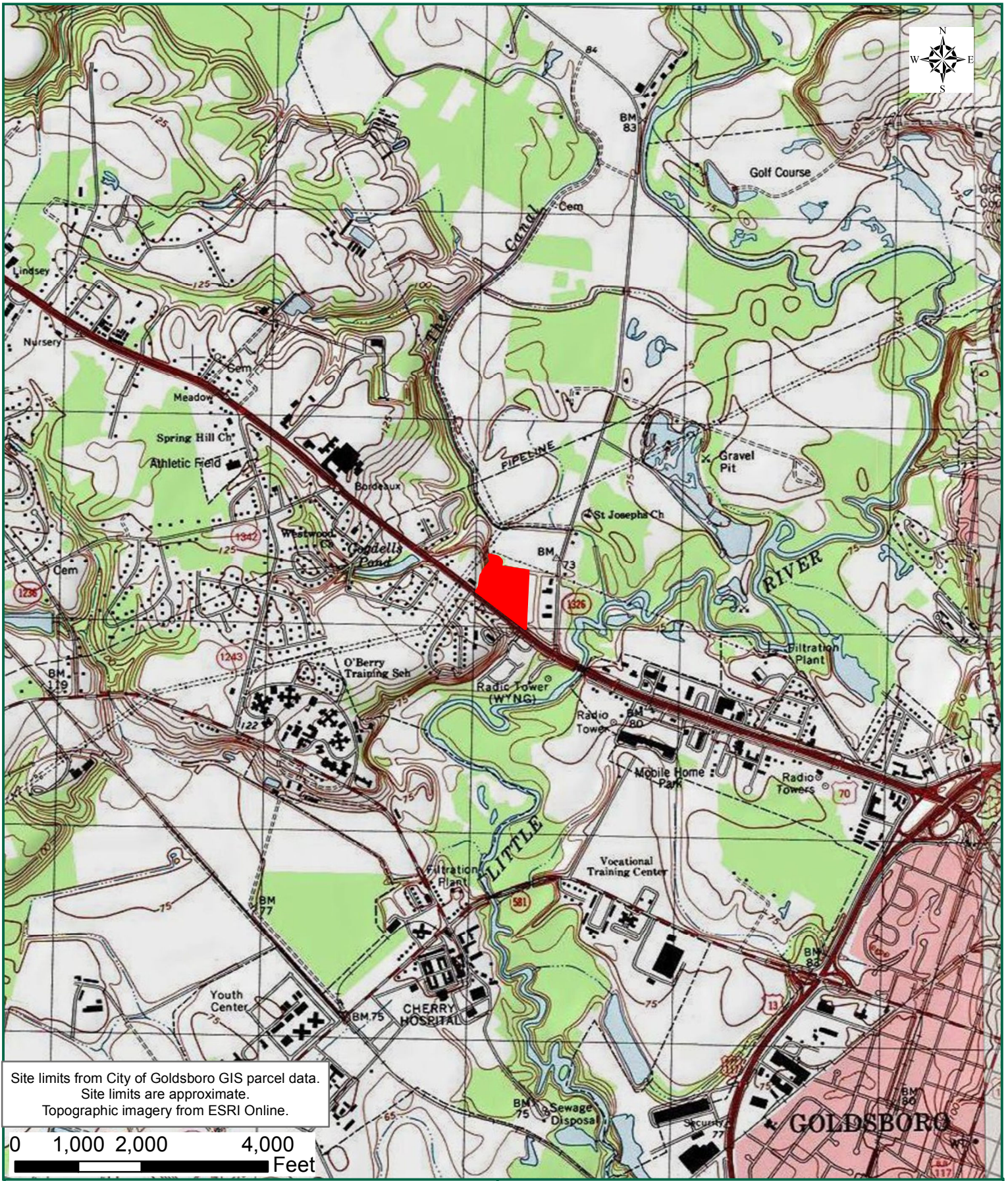
thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water 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 consolidated 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, April 6, 2014. Comments should be submitted to Ms. Emily Greer, Washington Regulatory Field Office, 2407 West Fifth Street , Washington, North Carolina 27889, at (910) 251-4567.



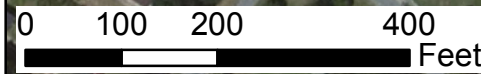
HIGHWAY 70 WEST COMMERCIAL FILL SITE
 CITY OF GOLDSBORO, NORTH CAROLINA
DRAWING 1: VICINITY MAP

TIMMONS GROUP
 YOUR VISION ACHIEVED THROUGH OURS.




TIMMONS GROUP JOB NUMBER: 34641
 PROJECT STUDY LIMITS: 12.2 ACRES
 LATITUDE: 35°24'20.317"N
 LONGITUDE: 78°1'31.63"W

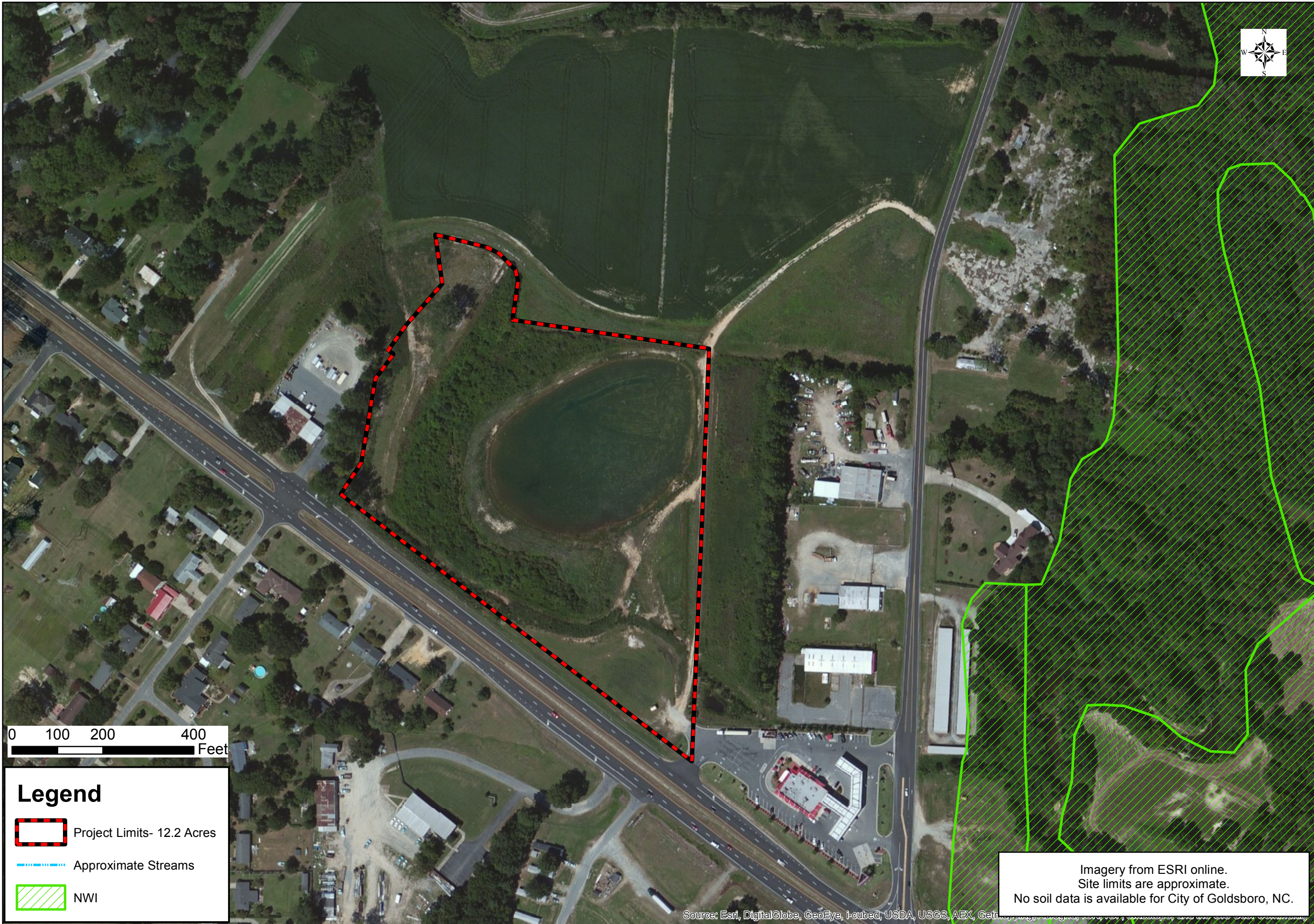
U.S.G.S. QUADRANGLE(S): NORTHWEST GOLDSBORO
 DATE(S): 2008
 WATERSHED(S): UPPER NEUSE
 HYDROLOGIC UNIT CODE(S): 03020201

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Legend

-  Project Limits- 12.2 Acres
-  Approximate Streams
-  NWI



TIMMONS GROUP

HIGHWAY 70 WEST COMMERCIAL FILL SITE

CITY OF GOLDSBORO, NORTH CAROLINA

THIS DRAWING PREPARED AT THE
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DATE		09/19/2013
DRAWN BY		C. CHAPPELL
DESIGNED BY		C. CHAPPELL
CHECKED BY		E. VIRTS
SCALE		1" = 200'
JOB NUMBER	34641	
SHEET NO.		
REVISION DESCRIPTION	DATE	BY
	XXXXXX	

Imagery from ESRI online.
Site limits are approximate.
No soil data is available for City of Goldsboro, NC.

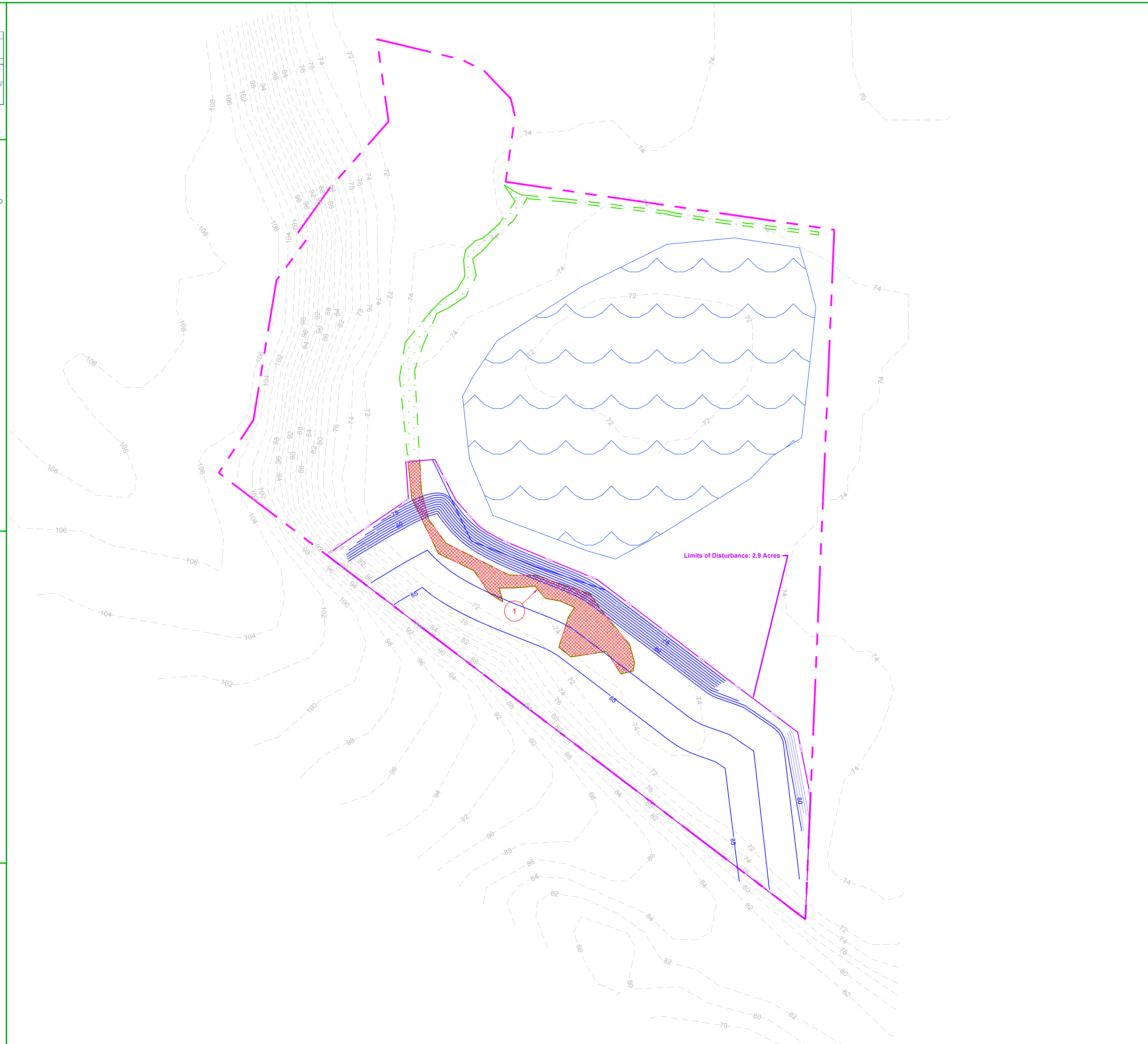
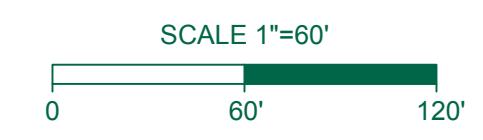
Impacts Table							
Impact Number	Cowardin Classification					Impact Type	Wetland/Stream Impact Description*
	PFO (R ²)	PEM (R ²)	PSS (R ²)	POW (R ²)	R3 (L,F)		
1	0	0	10.838	0	0.0	0.0	ROAD-FILL
Total	0	0	10.838	0	0.0	0.0	
Total Wetland Impacts = 10838.00 R ² = 0.25 Acres							
Total Water of the U.S. Impacts = 0.00 L.F.							

* T=Tidal, N=Non-tidal, S=Hydrologically isolated, V=Vegetated, NV=Nonvegetated, TE=Temporary, PE=Permanent, PFO=Palustrine Forested Wetland, PEM=Palustrine Emergent Wetland, PSS=Palustrine Scrub/Shrub Wetland, POW=Palustrine Open Water, R3=Perennial Stream, R4=Intermittent Stream, S83=Streambed Cobble-Gravel, S84=Streambed Sand, S85=Streambed Mud

LEGEND	
	PROJECT STUDY LIMITS (12.2 ACRES)
	WETLAND IMPACT IDENTIFICATION
	PALUSTRINE SCRUB SHRUB (PSS) WETLAND
	NONJURISDICTIONAL STORM WATER MANAGEMENT BASIN
	WETLAND IMPACT
	PROPOSED FILL CONTOURS
	EXISTING CONTOURS
	LIMITS OF DISTURBANCE

NOTES:

1. WATERS OF THE U.S. WERE CONFIRMED BY THE U.S. ARMY CORPS OF ENGINEERS ON 7/9/2009 BY EMILY JERNIGAN.



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TEL: 804.280.6500 FAX: 804.586.1016 www.timmons.com

YOUR VISION ACHIEVED THROUGH OURS.

DATE
9/25/13
DRAWN BY
C. CHAPPELL
DESIGNED BY
C. CHAPPELL
CHECKED BY
E. VIRTS
SCALE
1"=60'

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HIGHWAY 70 WEST COMMERCIAL FILL SITE
CITY OF GOLDSBORO, NORTH CAROLINA

DRAWING 6: PROPOSED CONTOURS AND WETLAND IMPACTS MAP

JOB NO.
34641
SHEET NO.
1 of 1

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