



**US Army Corps  
Of Engineers  
Wilmington District**

# **PUBLIC NOTICE**

Issue Date: March 5, 2015  
Comment Deadline: April 6, 2015  
Corps Action ID Number: SAW-2014-02254

The Wilmington District, Corps of Engineers (Corps) received an application from Green Meadows, LLC seeking Department of the Army authorization to discharge fill material into 1.14 acres of jurisdictional headwater and riparian wetlands, 4,166 linear feet of jurisdictional intermittent and perennial streams, along with 0.50 acre of isolated wetlands non-jurisdictional wetlands, associated with coal ash repositories to be located at the Brickhaven and Sanford (Colon) Mines in Chatham and Lee Counties, 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:** Green Meadows, LLC  
Attn: Mr. Charles Price  
1206 Plantside Drive  
Louisville, KY 40299

**Agent:** Clear Water Environmental Consultants, Inc.  
Attn: Mr. R. Clement Riddle  
224 South Grove Street, Suite F  
Hendersonville, NC 28792

## **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)



## **Applicant's Stated Purpose**

The applicant's stated purpose is to close coal ash basins at the Riverbend Steam Station and the Sutton Electric Plant coal fired power plants by August of 2019 as required by the Coal Ash Management Act passed by NC Legislature in 2014 (CAMA14). Closing the ash basins would require moving and disposing of ash in a manner that is consistent with all Federal and State regulations.

## **Project Description**

Approximately 3 million tons of coal ash would be transported to the Brickhaven and Sanford Mines for use in mine reclamation. A rail loading/unloading system would be developed to transport coal ash to the two mines. Once the rail system is complete, a combination of rail and truck, or all rail, could be utilized to transport coal ash to the mines.

At the Brickhaven Mine the structural fill and associated infrastructure would encompass approximately 166 acres. At the Sanford Mine, the structural fill and associated infrastructure would encompass approximately 137 acres.

The coal ash would be contained within an engineered fill cell that utilizes a High Density Polyethylene (HDPE) liner that is seamed and welded to ensure the liner is leak-proof. The liner encompasses all sides of the fill and forms a continuous chemical-resistant barrier to prevent potential soil and groundwater contamination. The base of the fill cell would be comprised of a geosynthetic clay liner (GCL), overlain by the HDPE liner, and then by a fabric drainage liner. When sites are filled, the top and sides of the fill cell would also be comprised of the impervious HDPE liner. The fill cell would be "capped" with a compacted soil layer that would be a minimum of 6 feet in depth along the surface and a minimum of 2 feet deep along the side slopes. The proposed HDPE liner is designed to industry standards and has an expected life of 500+ years.

## **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment. The applicant states that 75% of the streams and 95% of the wetlands on the two sites have been avoided by the present proposal. The proposed railroads have been realigned to minimize wetland and stream impacts, including avoiding 2,000 linear feet of potential stream impacts by moving the rail line upslope of stream channels on the Moncure Holdings and Brickhaven sites. Additionally, railroad crossings on the Moncure Holdings site propose to utilize arched culverts across jurisdictional streams. In addition, the applicant is eliminating a stockpile and laydown yard at the Sanford site, thereby reducing 837 linear feet of stream and 0.33 of wetlands impacts. Finally, the impacts have been minimized at both sites by utilizing existing road crossings.

## Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional losses to the aquatic environment: Green Meadows proposes to mitigate for unavoidable impacts (4,166 linear feet of stream and 1.64 acres of wetland) at a 1:1 ratio through payment into the North Carolina Environmental Enhancement Program (NCEEP) in-lieu fee program. By letter dated February 10, 2015, NCEEP indicated they are willing to accept payment for impacts associated with the proposed project.

## 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 will not adversely affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

## 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 March 25, 2015 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, 2015. Comments should be submitted to Craig Brown, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 ext 35.