



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: December 9, 2015
Comment Deadline: January 8, 2015
Corps Action ID Number: SAW-2015-01300

The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. Philip Jones, University of North Carolina at Charlotte (UNCC) Facilities Management seeking Department of the Army authorization to impact 0.68 acre of jurisdictional open water, 82 linear feet of jurisdictional stream channel and 0.1 acre of wetland associated with stormwater management facility construction in Mecklenburg 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: UNC Charlotte - Philip M Jones
9201 University City Boulevard
Charlotte, North Carolina 28223

AGENT (if applicable): Carolina Wetland Services - Gregg C Antemann
550 E. Westinghouse Boulevard
Charlotte, North Carolina 28273

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: The project area is located on UNC Charlotte Main Campus, across from 8919 University Rd, Charlotte, Mecklenburg NC 28270 (within 200-foot buffer around Davis Lake).

Excavation of accumulated sediments (pond maintenance) from the bed of the lake is necessary, and will ultimately deepen the lake to increase detention capacity. During this process, the littoral shelf will be constructed. The proposed littoral shelf will be planted with native wetland species (Figure 10 (attached)). This stormwater feature improve water quality of stormwater runoff by filtration.

The eastern portion of the proposed stormwater management pond will be expanded by excavation and this will impact 82 linear feet of a seasonal stream channel (Stream A) and 0.099 acre of jurisdictional wetlands (Wetland AA and Wetland BB). These impacts to the jurisdictional stream and wetlands are necessary to construct the proposed forebay for the stormwater management facility (Figure 10). The proposed forebay is designed to capture and settle out sediments prior to entering the main pond and is sized according to the capacity required of the proposed retrofit.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

Impacts to on-site jurisdictional waters of the U.S. have been reduced to the maximum extent that is practical. Proper sediment and erosion control measures will be applied to minimize disturbances to downstream waters. No impact to downstream waters is proposed. The excavation for the stormwater management pond construction will be completed with equipment operating from upland areas. Removed sediments will be hauled off site. All disturbed areas will be seeded and matted with natural fiber matting. CWS believes the proposed design represents the least damaging environmental alternative while still meeting the goals of the project. The proposed impacts are designed to improve storm water management and water quality treatment of stormwater runoff.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

Permanent impacts to jurisdictional waters of the U.S. have been limited to less than 0.1 acre of wetland impacts and less than 150 linear feet of stream channel due to excavation. Due to the limited impacts and current USACE and NCDWR policy to allow impacts to open water ponds without providing compensatory mitigation, no mitigation is proposed for these impacts.

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 may affect, but not likely to 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 January 8, 2016 to:

NCDWR Central Office
(Mailing address) Attn: Ms. Karen Higgins, 401 and Buffer Permitting Unit
1617 Mail Service Center, Raleigh, North Carolina 27699-1617

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 not 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, January 15, 2016. Comments should be submitted to Mr. William Elliott, Regulatory Specialist, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980.

Cone Parking Deck 1



Belk Gym Lane

University Road

Seasonal RPW Stream A
~ 309 LF

Seasonal RPW Stream A
~ 264 LF

Memorial Hall

Wetland BB
~ 0.015 ac

Pond A (Davis Lake)
~ 0.68 ac

Wetland AA
~ 0.092 ac

Sanford Hall Lane

Seasonal RPW Stream B
~ 247 LF

100 50 0 100 Feet

NOTE: JURISDICTIONAL WATERS OF THE U.S. WERE DELINEATED, CLASSIFIED, AND MAPPED WITH A SUB-METER GPS UNIT BY CWS, INC. ON MAY 29, 2014. JURISDICTIONAL FEATURES HAVE BEEN FIELD-REVIEWED BY USACE DURING A SITE VISIT ON JULY 15, 2015.

REFERENCE: BACKGROUND GIS LAYERS PROVIDED BY MECKLENBURG COUNTY GIS DEPARTMENT, DATED 2009. STREAM AND WETLAND LAYERS GENERATED BY CWS, INC., DATED MAY 2014.

Legend

- Project Limits
- Davis Lake
- Wetlands
- Seasonal RPW
- Buildings
- Roads
- Parcels
- SCP Stream Classification Point
- DP Data Point
- Photo Location & Direction

SCALE: 1" : 100'

DATE: 7-22-15

CWS PROJECT NO:
2015-3551REV

DRAWN BY:
AVH

APPLICANT NO:

CHECKED BY:
KMT



Approximate Jurisdictional Boundary Map

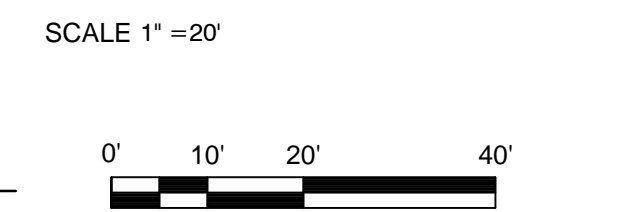
UNCC Davis Lake Site
Charlotte, North Carolina
CWS Project No. 2015-3551

FIGURE NO.

8
of
10

SEAL
PRELIMINARY - DO NOT USE FOR CONSTRUCTION

KEY PLAN



NO.	DATE	BY	DESCRIPTION

REVISIONS

NO.	DATE	BY	DESCRIPTION

DRAWN BY: BML
 APPROVED BY: BML
 CHECKED BY: RSN
 DATE: OCTOBER 16, 2014

TITLE
GRADING PLAN

PROJECT NO. 50069420

FIGURE 9

