



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 13, 2016
Comment Deadline: June 13, 2016
Corps Action ID Number: SAW-2014-01568

The Wilmington District, Corps of Engineers (Corps) received an application from WI High Point Landfill, LLC seeking Department of the Army authorization to discharge fill material into waters of the United States, associated with expanding the existing Waste Industries (WI) High Point Construction and Debris (C&D) Landfill in Guilford 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: WI High Point Landfill, LLC
Mr. David Pepper
3301 Benson Drive, Suite 601
Raleigh, North Carolina 27509

Agent: Carolina Ecosystems, Inc.
Mr. Philip May
3040 NC Highway 42 West
Clayton, North Carolina 27520

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 proposed project area is a primarily undeveloped tract immediately east of the existing WI High Point C&D Landfill cells, located on the west side of Riverdale Road, approximately 0.3 mile south of its intersection with Kivett Drive, at 5822 Riverdale Drive in High Point, in Guilford County, North Carolina.

Project Area (acres): ~26 acres (proposed landfill cells) Nearest Town: High Point
Nearest Waterway: UT to Richland Creek River Basin: 03030003
Latitude and Longitude: 35.949410°N, -79.921204°W

Existing Site Conditions

The proposed project area is located within the Charlotte Belt of the Piedmont Physiographic Province. This region's geology is dominated by plutonic rocks with some large areas of metavolcanic rocks. The expansion site (project area) geomorphology generally includes uplands bisected from northeast to southwest by three small parallel drainages down cutting from the uplands towards the floodplain of a unnamed tributary (UT) to Richland Creek (off site). Elevation across the site ranges from approximately 810 feet above mean sea level (MSL) in the southeast extent of the property near Riverdale Drive, to 738 feet MSL along a UT to Richland Creek in the southwest corner of the site. Soils are mapped as Enon fine sandy loam 2-6% slopes (EnB), Enon fine sandy loam 6-10% slopes (EnC), Wynott-Wilkes-Poindexter complex 2-10% slopes (WwC), Wilkes-Poindexter-Wynott complex 10-15% slopes (WkD), and Wilkes-Poindexter-Wynott complex 15-45% slopes (WkE). The Enon series consists of well drained, slowly permeable soils that occur on ridge tops and side slopes of the Piedmont. The Poindexter series consists of well drained, moderately permeable soils that formed in residuum from basic rocks or a mixture of basic and acidic rocks in the Piedmont. The Wilkes series consists of well drained, moderately slow to slowly permeable soils that formed in residuum weathered from intermediate and mafic crystalline rocks on uplands in the Piedmont. The Wynott series consists of well drained, slowly permeable soils that formed in residuum from gabbro, diorite, and other dark colored mafic rocks on uplands in the Piedmont. Average annual precipitation for Guilford County is 43.1 inches.

Historically, the site used for farming, with forested areas on the steeper slopes and bottomlands. A pond was constructed in the project area in the late 1990s and removed and re-graded between 2007 and 2008. The existing landfill was constructed on the west side of the property between 2002 and 2004. Currently the proposed project area consists of early to mid-successional forest, with the drained pond area consisting of fescue (*Festuca spp.*) and Bermudagrass (*Cynodon dactylon*) in the central portion. Upland forest areas on site include trees such as Virginia pine (*Pinus virginiana*), sweetgum (*Liquidambar styraciflua*), and red maple (*Acer rubrum*), saplings and shrubs including eastern red cedar (*Juniperus virginiana*), post oak (*Quercus stellata*), multiflora rose (*Rosa multiflora*), and Chinese privet (*Ligustrum sinense*), and vines such as Japanese honeysuckle (*Lonicera japonica*). A maintenance facility, scale house, and recycling center are located just north of the project area associated with the existing C&D landfill.

The project area is bordered to the west by the existing WI High Point C&D Landfill, to the south by forested land and a power line corridor, to the east by Riverdale Road, and to the north by existing C&D landfill infrastructure referenced above. General area land use includes forested areas, scattered low density residential properties, two municipal landfills to the west, a granite quarry to the north, and a water treatment plant to the southeast. The project area is located between I-85 and I-85 Business, approximately one mile to the northwest and southeast, respectively.

Carolina Ecosystems, Inc., consultant for the applicant, conducted a delineation of potential waters of the US for the site in February 2014. The jurisdictional boundaries, including 1 streams and adjacent 5 wetlands were verified by the Corps during a site visit on August 26, 2014; an Approved Jurisdictional Determination (AJD) is pending. The on-site stream, a UT to Richland Creek, is considered a Relatively Permanent Water, which flows via Richland Creek to the Deep River, a Traditionally Navigable Water. This stream carries the NC Division of Water Resources (NCDWR) best usage classification of "WS-IV, CA." "WS-IV" refers to those waters used as sources of water supply for drinking, culinary, or food processing purposes where a WS-I, II or III classification is not feasible. WS-IV waters are generally in moderately to highly developed watersheds or Protected Areas. "CA" refers to Critical Area as this resource is in the Randleman Lake Riparian Buffer area. There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply (WS-II) waters within 1.0 mile of the project area. The wetlands within the project area are all of the Headwater Forest wetland type, according to the North Carolina Wetland Assessment Method (NCWAM). These features contain a mix of plant assemblages, with the wetland area in the drained pond bed containing small trees such as black willow (*Salix nigra*) and sweetgum, and herbaceous plants such as soft rush (*Juncus effusus*), woolgrass (*Scirpus cyperinus*), and broadleaf cattail (*Typha latifolia*). The other wetlands on site are forested with canopy species including sweetgum, saplings and shrubs including tag alder (*Alnus serrulata*), black willow, and sycamore (*Platanus occidentalis*), and vines such as Japanese honeysuckle. Soils within these features are primarily loamy with a low chroma (2.5Y 5/2) matrix and bright (7.5YR 5/6) redoximorphic concentrations. Typical of wetlands in headwater drainages, these wetlands display hydrology indicators such as seasonal high water table and saturation, oxidized rhizospheres on living roots, and FAC-neutral test.

Background

The initial cells of the WI High Point C&D Landfill were authorized under Nationwide Permit 39 on September 18, 2002. This authorization included permanent fill in 0.02 acre of riparian wetlands. Compensatory mitigation was not required for these impacts.

Applicant's Stated Purpose

The purpose of the WI High Point C&D Landfill Expansion is to provide construction and demolition waste capacity to serve the growth and development over the next 20 or more years in High Point and the Triad area. The project goal is to realize the previously planned and permitted waste capacity of the landfill as approved in the facility's Conditional Use Permit (CUP) and Solid Waste Permit, while avoiding the designated water supply critical area on the site. Due to the rapid growth in the Triad area, there is a continuous demand for C&D disposal. Ten C&D landfills occur within 50-miles of the Site. Only three of the ten alternative existing disposal locations are private facilities, while the remainder are public and take waste primarily from their local area. The total available capacity of all these sites does not meet the future demand for C&D disposal over the next several decades.

Project Description

The applicant has proposed to permanently discharge fill material into an additional 394 linear feet of perennial streams and 0.60 acre of riparian, non-riverine wetlands to expand the existing WI High Point C&D Landfill, consisting of four additional landfill cells, structural fill for waste cell sloping, and stormwater outfall. The applicant also proposes to temporarily discharge fill material into 10 linear feet of stream for facility construction.

If authorized, cumulative impacts for all cells of the WI High Point C&D Landfill would include permanent fill in 0.62 acre of riparian, non-riverine wetlands and 394 linear feet (0.05 acre) of stream channel and temporary fill in 10 linear feet (<0.01 acre) of stream channel.

The applicant submitted an Alternatives Analysis that includes a No Action and two on-site Alternatives. This information has been included with this Public Notice as well. Supplemental documentation including project plans and a narrative can be found on the District Website at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices.aspx>.

Avoidance and Minimization

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

- Expanding an existing landfill facility instead of pursuing a new self-contained landfill;
- Designing the waste area of the landfill completely outside of the Randleman Lake Critical Area;
- Employing Best Management Practices and best available science in landfill design and construction;

- Designing and constructing stormwater and sediment and erosion controls consistent with state law.

Compensatory Mitigation

The applicant proposed to offset unavoidable functional loss to the aquatic environment through payment to the NC Division of Mitigation Services (NCDMS). Although NCDMS provided a mitigation acceptance letter dated April 25, 2016, the applicant did not propose specific mitigation to impact ratios for each impact type.

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.

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.

The applicant submitted additional site-specific information on federally protected threatened and endangered species, which can be found on the District Website at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices.aspx>.

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 June 3, 2016 to:

NCDWR Central Office
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 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 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, June 13, 2016. Comments should be submitted to David E. Bailey, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 extension 30.