



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: January 6, 2016  
Comment Deadline: February 8, 2016  
Corps Action ID Number: SAW-2015-02127

The Wilmington District, Corps of Engineers (Corps) received an application from Novo Nordisk Pharmaceutical Industries, Inc. seeking Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with The Bright Sky Project, the proposed construction of an Active Pharmaceutical Ingredients (API) production facility in Johnston 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>

**Applicants:**

Novo Nordisk Pharmaceutical Industries, Inc.  
Mr. Gary Lohr  
3612 Powhatan Road  
Clayton, NC 27527

NC Department of Transportation – Division 4  
Mr. Timothy M. Little, P.E., Division Engineer  
509 Ward Boulevard  
Wilson, NC 27895-1670

**Agent:**

Kimley-Horn and Associates, Inc.  
Ms. Beth Reed  
3001 Weston Parkway  
Cary, NC 27513

**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 Raleigh, take I-40 East towards US-70 East. Take Exit 309 for US-70 East. Stay on US-70 for approximately 8.5 miles, and then take Exit 326 for US-70 Business. Turn left onto US-70 Business West, and continue for on US-70 Business West for approximately 2 miles. Turn right onto Powhatan Road, and continue for 0.75 miles. The Site will be on the right after crossing over the railroad tracks.

Project Area (acres): 296                                      Nearest Town: Clayton  
Nearest Waterway: Reedy Branch                                      River Basin: Neuse  
Latitude and Longitude: 35.616392N, 78.402377W

## **Existing Site Conditions**

The proposed project area consists of approximately 296-acre and is primarily composed of agricultural fields (most recently utilized for corn production), fallow fields, and undeveloped mixed-hardwood forest. The only structure located within the project site is an abandoned farm house located near Gordon Road in the southernmost portion of the project site. Land use in the vicinity of the project consists of agricultural development, low to medium density residential housing, industrial facilities, and undeveloped forested land. The site is located in the Neuse River Basin (USGS 8-digit HUC: 03020201). A single stream, an Unnamed Tributary (UT) to Reedy Branch, was identified south of the NC/Norfolk Southern railroad. The UT to Reedy Branch flows through the site for 1,224 linear feet before exiting the site via a culvert underneath Gordon Road. There are 79.02 acres of wetlands on-site, of which 2.93 acres are considered isolated wetlands. The jurisdictional wetlands are dominated by swamp tupelo (*Nyssa biflora*), tulip-poplar (*Liriodendron tulipifera*), loblolly pine (*Pinus taeda*), red maple (*Acer rubrum*), sweet bay (*Magnolia virginiana*), and sweetgum (*Liquidambar styraciflua*). Common understory species observed included ti-ti (*Cyrilla racemiflora*), sweet pepperbush (*Clethra alnifolia*), sweetleaf (*Symplocos tinctoria*), red chokeberry (*Aronia arbutifolia*), Chinese privet (*Ligustrum sinense*), and black highbush blueberry (*Vaccinium fuscatum*). Common species observed in the herbaceous layer typically included slender woodoats (*Chasmanthium laxum*), giant cane (*Arundinaria gigantea*), netted chain fern (*Woodwardia areolata*), false-nettle (*Boehmeria cylindrica*), cinnamon fern (*Osmundastrum cinnamomeum*), and Japanese stilt-grass (*Microstegium vimineum*). Hydrology within the jurisdictional wetlands is driven by groundwater seepage and diffuse surface flows.

The proposed site is located in the coastal plain physiographic region of North Carolina. Topography in the project vicinity is comprised of low rolling hills with gentle slopes down to wide, level floodplains along streams. Elevations at the project site range from 280 to 310 feet above mean sea level.

## **Applicant's Stated Purpose**

The applicant's stated purpose is to construct an API production facility in North Carolina. According to the applicant, the project is necessary to expand the company's ability to produce ingredients for current and future diabetes fighting products. Expanding API production in the U.S. would supplement Novo Nordisk's current API footprint in Denmark where production capacity is limited and current supply is unable to meet the growing global demand.

## **Project Description**

The project would consist of the construction of an approximately 900,000 square foot API production facility adjacent to the existing Novo Nordisk insulin production facility on Powhatan Road. The proposed project would include construction of the following: warehouses for raw material, finished product, and consumable/cold storage; fermentation buildings for raw product growth; recovery buildings for separation of yeast and byproducts from API; purification buildings for product refinement; waste water tank, fire water tank, and cooling towers; office space, gowning, and laboratory building; central utility building housing boilers for clean steam, processed air and water; electrical substation; gate houses at facility entrances; waste water pre-treatment facility; parking facilities; stormwater management basins; and internal roadways. In addition to access off of Powhatan Road, a southern access is proposed off of Gordon Road which would include a bridge over the Norfolk Southern railroad.

The cumulative project impacts to waters of the United States for the API production facility and Gordon Road Access would be 5.32 acres of jurisdictional wetlands and 188 linear feet of jurisdictional stream.

## **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 for the manufacturing facility to be operationally efficient, the structural components need to be in close proximity for production sequencing as well as truck deliveries and pickup. As a result, the on-site alternatives must be designed to accommodate the physical layout of the facility in a manner that would make it operationally efficient and functional. Impacts to waters of the United States have been avoided and minimized by designing the preferred alternative to be as far west on the site as feasible. Further, the preferred alternative for the Gordon Road access would be located in a manner that avoids and minimizes onsite impacts to jurisdictional streams and wetlands.

## **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The quality and function of the headwater forest wetlands and the perennial stream system on the Site are high; therefore, a

mitigation ratio of 2:1 is proposed to offset unavoidable impacts to these jurisdictional feature types. The total mitigation proposed for the project is 376 linear feet of stream mitigation credits and 10.64 acres of riparian wetland mitigation credits.

Novo Nordisk would be responsible for mitigation associated with impacts resulting from construction of the Novo Nordisk facility only. The North Carolina Department of Transportation (NCDOT) would be responsible for the mitigation associated with impacts to the Gordon Road access only. NCDOT would secure mitigation through active NCDOT-specific mitigation banks or by payment into the North Carolina Division of Mitigation Services (NCDMS) In-Lieu Fee (ILF) program, based on available credits at the time NCDOT initiates construction on the access road. It is anticipated that NCDOT would secure mitigation for 376 linear feet of stream mitigation credits and 6.07 acres of riparian wetland mitigation credits.

Novo Nordisk proposes to mitigate for permanent impacts to jurisdictional wetlands associated with the construction of the Novo Nordisk facility by purchasing 4.57 acres of riparian wetland mitigation credits from Resource Environmental Solutions, LLC (RES) banks that are active in the Neuse River Basin (HUC 03020201). Due to the credit need for this project, and the expected timeline for permit review, RES has provided documentation that based, on anticipated credit release schedules on the active banks in the watershed, they expect to be able to provide the required mitigation credits. If the proposed credit release schedule changes and the required credits are not available at the time of project construction, Novo Nordisk will secure mitigation for the proposed impacts by payment into the NCDMS ILF program. NCDMS has accepted Novo Nordisk's request for in-lieu fee payment for up to 10 acres of riparian wetland mitigation credits.

### **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. The National Oceanic and Atmospheric Administration (NOAA) EFH Mapper was reviewed on December 15, 2015 and no EFH was located in or within 1.0-mile of the Site boundary.

### **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 26, 2016 to:

NCDWR Central Office  
Attention: Ms. Karen Higgins, 401 and Buffer Permitting Unit and Ms. Amy Chapman, Transportation 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, February 8, 2016. Comments should be submitted to John Thomas, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (907) 554-4884 ext. 25.