



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: November 7, 2024
Comment Deadline: December 9, 2024
Corps Action ID Number: SAW-2023-00226

The Wilmington District, Corps of Engineers (Corps) received an application on October 29, 2024 from Alligator Bay Associates, LLC seeking Department of the Army authorization to discharge fill material into wetlands for the construction of two (2) road crossings, associated with the existing Preserve at Tidewater subdivision in Sneads Ferry, Onslow 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:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: Richard Dischnica
Alligator Bay Associates, LLC
3675 Mt. Diablo Blvd.
Lafayette, CA 94594

AGENT (if applicable): Dana Lutheran
Southern Environmental Group, Inc.
5315 South College Road, Suite E
Wilmington, NC 28412

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)

Location

Location Description: The project area is located within the existing Preserve at Tidewater Subdivision, south of Chadwick Acres Road in Sneads Ferry, Onslow County, North Carolina.

Project Area (acres): 17.75 acres
Nearest Town: Sneads Ferry (unincorporated)
Nearest Waterway: Alligator Bay, Stump Sound
River Basin: White Oak
Latitude and Longitude: 34.521320 N, -77.408590 W

Existing Site Conditions

The subdivision, originally called Alligator Bay began development of a 380-acre tract with a Nationwide Permit 39, issued under Action ID SAW-2005-00817 on 27 February 2006 for 0.429 acres of permanent wetland loss for road crossings associated with subdivision development. On January 12, 2007, the applicant submitted a permit modification request that included additional impacts associated with installing a culverted crossing instead of the bottomless culvert and some unresolved non-compliance work. The modification increased the total permanent impacts to Section 404 wetlands to 0.442 acre and added 39 linear feet of stream impact. Mitigation was required at a 2:1 ratio for both wetland and stream impacts.

Due to various reasons, the property was conveyed to a new owner and a Nationwide Permit 29 was issued on 7/2/2014 to the new owners in order to resolve the non-compliance issue and to verify the previously authorized impacts since the original authorization expired. This authorization included a total of 0.49 acre of permanent impacts for the road crossings, the majority of which were constructed. Additional Special Conditions were added to address restoration and mitigation required. Compliance with the Special Conditions and closure of the enforcement action was noted with the acceptance on the one-year monitoring plan submitted to our office on 11/4/2016 and mitigation was fulfilled on 7/22/2014 via payment to Bachelors Delight Mitigation Bank for 0.98 acre of wetland mitigation. Additionally, the 78 linear feet of stream mitigation was paid to NC EEP, receipt dated 3/20/2008.

More recently an additional crossing was verified after-the-fact through enforcement under Action ID SAW-2023-00226. The enforcement action included restoration of 2 lots where fill was placed (lot 299 and 147R). Additionally, it was noted during this time that impacts M and N, verified with previous permits were never constructed. The impacts of the after-the-fact crossing, and removal of Impacts M and N bring the total cumulative permanent impacts to 0.451-acre of wetland and 39 linear feet of stream.

The existing subdivision is located south of Chadwick Acres Road in Sneads Ferry. This area has experienced rapid growth potentially due to the proximity to nearby military installations such as Camp Lejeune and New River Air Station. The approximate

17.75-acre Project Area is located within the existing subdivision on the western side. The community has access to the waters of Alligator Bay via an old earthen causeway that leads to an 'amenity' island that consists of trails, an observation platform, and kayak launch permitted by NC Division of Coastal Management General Permit. No future work is planned for the 'amenity' island.

Of the 17.75-acre Project Area, approximately 8.85 acres are wetland. The Project Areas consists mostly of mixed pine and pocosin forest surrounded by residential development. Soils in the area are mapped as Leon fine sand (Ln) and Wando fine sand (WaB). Vegetation in the upland areas consist of open pine forest with a mix of turkey oaks and American holly. Vegetation in wetland areas tend to be dense gall berry thicket with mixed bays, typical of pocosins.

Applicant's Stated Purpose

The purpose of this project is to install a road and infrastructure that will provide access and utilities to 18, single family, residential lots within the existing Preserve at Tidewater subdivision.

Project Description

Per the applicant: The project consists of constructing a road (i.e., Sanderling Court) across two wetland WOUS features that are located within the last phase of The Preserve at Tidewater subdivision. The first impact (i.e., Impact P) will consist of removing all vegetation and unsuitable soil from approximately 0.035-acre of wetlands, after which sewer and water lines will be installed, followed by the installation of four (4) 18" Class IV RCP at existing grade, backfilling with clean earthen fill, and then capping with crush and run and asphalt. The second crossing (i.e., Impact Area Q) will entail the same construction sequence as Impact Area P, but the crossing will only require three (3) 18" Class IV RCP, which will need to be buried to allow for adequate separation between the sewer line and the culvert. Weir type drop inlets will be used on the upstream and downstream ends of the pipes. The top of the inlet will extend slightly above existing grade and will only allow water to enter the pipe during high flow periods. A small swale will be excavated to direct water to the inlet on the upstream end. Impact Area Q will require approximately 0.05-acre of permanent wetland fill. The fill within the wetlands, at both crossings, will be graded to a maximum of 3:1 slope. Please see Appendix D for details of the proposed work. Cumulatively, the project will permanently remove the functions of 0.536-acre (0.451 AC + 0.085 AC) of wetland waters of the US and 39 linear feet of warm water stream. The following table captures all of the impacts that have been authorized and completed to date, as well as the two newly proposed impacts.

Impact Area	Wetland	Stream	Status
A	1147 SF / 0.03 AC	39 LF	Completed
B	6556 SF / 0.15 AC		Completed
C	1101 SF / 0.003 AC		Completed
D	649 SF / 0.01 AC		Completed
E	2786 / 0.06 AC		Completed
F	1366 SF / 0.03 AC		Completed
G	1163 SF / 0.02 AC		Completed
H	2437 SF / 0.06 AC		Completed
I	451 SF / 0.01 AC		Completed
J	278 SF / 0.01 AC		Completed
K	38 SF / 0.001AC		Completed
L	115 SF / 0.003 AC		Completed
M	1189 SF / 0.03 AC		Removed
N	1985 SF / 0.04 AC		Removed
O	1515 SF / 0.03 AC		Completed
P	1532 SF / 0.04AC		Proposed
Q	2181 SF / 0.05 AC		Proposed
Total Proposed	3713 SF / 0.085 AC		
Total Cumulative	23,316 SF / 0.536 AC	39 LF	

Table 3. The Preserve at Tidewater WoUS Impact Table

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed road crossings impacting wetlands would be privately owned by the subdivision and were designed to be as narrow as possible. Additionally, the proposed road crossings are positioned at the narrowest areas and at the most perpendicular angle as was feasible.

Compensatory Mitigation

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

Per the applicant: The Applicant purchased 0.96-acre of wetland restoration credit to mitigate for 0.49-acre of permanent wetland impact, from the Batchelor's Delight Mitigation Bank (BDMB). However, to date only 0.451-acre of wetland impacts have taken place. Therefore, the Applicant proposes to offset the loss of 0.046-acre (0.49 - 0.451) of wetland functions, by purchasing 0.092-acre (i.e., a 2:1 mitigation to impact ratio) of wetland restoration credit from the BDMB. A credit reservation letter from the BDMB will be furnished upon the USACE's and DWR's approval of the proposed mitigation.

Essential Fish Habitat (EFH)

The Corps' 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:

- No historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO and/or THPO.**

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:

- For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect
 - The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete. Further consultation is necessary based on the outcome of Northern Long-eared bat and Tri-Colored bat determination key available in the FWS IPaC website. The proposed project 'May Affect' the Tri-Colored bat. Additionally, using the Red Cockaded Woodpecker SLOPES (Standard Local Operating Procedure for Endangered Species) determination key consultation is required.

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 at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, *Specific Branch* Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office
Attention: Stephanie Goss, 401 and Buffer Permitting Branch
(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 requests, via the public notice, concurrence or objection from the NCDCM.

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 will 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, December 9, 2024. Comments should be submitted to Katharine Elks, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403, or via email at Katharine.B.Elks@usace.army.mil. The Corps Project Manager can be contacted at (910) 251-4567. Comments may also be submitted to WilmingtonNCREG@usace.army.mil.