US Army Corps of Engineers®

PUBLIC NOTICE

Applicant:
Steve Cahoon
Duke Energy

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Wilmington District
Permit Application No. SAW-2015-02646

TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). In Executive Order (EO) 14156 the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1621) based upon the finding that the United States' insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy. The U.S. Army Corps of Engineers (Corps), Wilmington District has found that this permit request meets the terms of EO 14156 and is therefore subject to special emergency permitting procedures to address an energy supply situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. The Wilmington District will implement the special processing procedures approved by South Atlantic Division in accordance with 33 CFR § 325.2(e)(4), however the applicant has requested that, where practical, the project review be completed under standard permitting procedures. The purpose of this public notice is to solicit comments from the public regarding the work described below:

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Duke Energy
410 South Wilmington Street
Raleigh, North Carolina 27601

AGENT: Joey Lawler
S&ME, Inc.
4021 Stirrup Creek Drive
Suite 100
Durham, North Carolina 27703

WATERWAY AND LOCATION: The project would affect waters of the United States associated with unnamed tributaries of South Hyco Creek (Hyco Lake), within the Lower Dan River watershed (Hydrologic Unit Code [HUC] 03010104). The project/review area is located on Duke Energy Progress land co-located on the same property as the Roxboro Steam Electric Plant, specifically east of a portion of Hyco Lake and east of Roxboro Plant Road, approximately 0.5 miles northeast of the intersection of Roxboro

Plant Road and Semora Road, at Latitude 36.472849 and Longitude -79.086258; in Semora, Person County, North Carolina (Figure 1).

EXISTING CONDITIONS: The Project is located west of the existing Duke Energy Progress coal-fired power plant (Figure 2). Existing site conditions consist of an ongoing construction and borrow operation within roughly the same limits of disturbance (LOD) as the proposed Person County Combined Cycle plant construction. A majority of the current borrow operation is on the eastern side of the project and includes existing sediment basins and erosion and sediment control (E&SC) perimeter measures. The western portion of the borrow operation, closer to Hyco Lake, has experienced fewer borrow activities, and many of the proposed sediment basins for those operations have not been constructed. The terrain consists of lightly wooded and formerly wooded areas, which drain toward Hyco Lake through various natural draws. Hyco Lake is considered a Traditional Navigable Water (TNW). Available topographic information indicates the site ranges in elevation from approximately 512 feet above sea level on the southeastern side of the property to approximately 466 feet above sea level on the northwest portion of the property.

Figure 1.

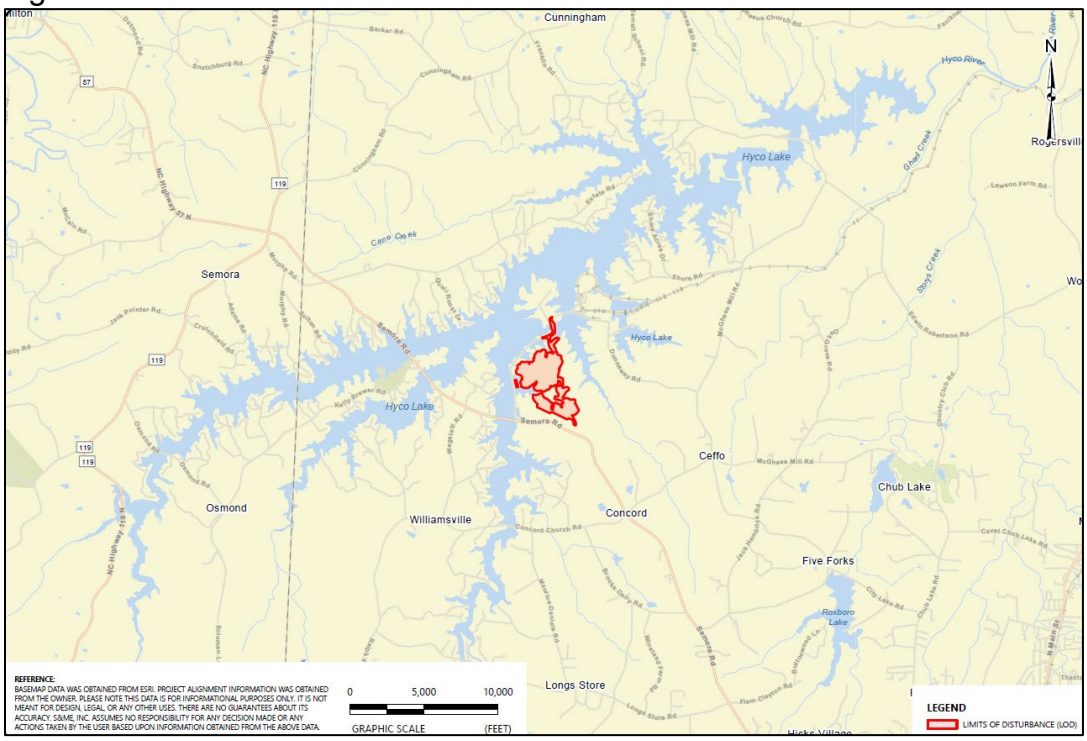
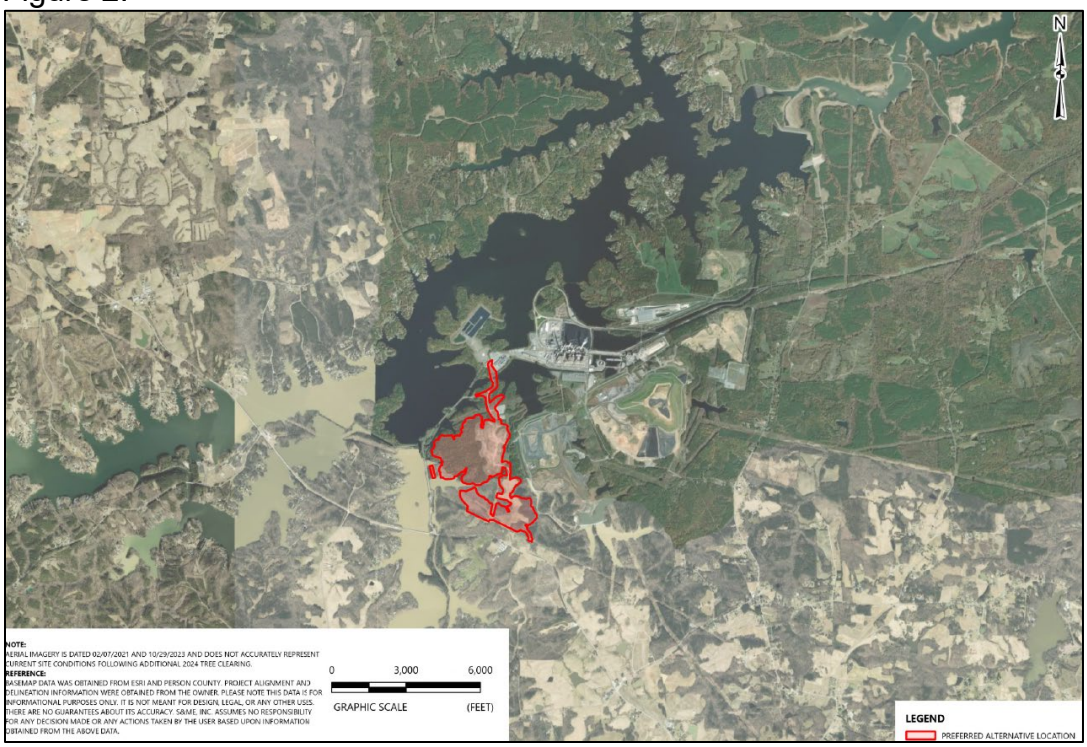
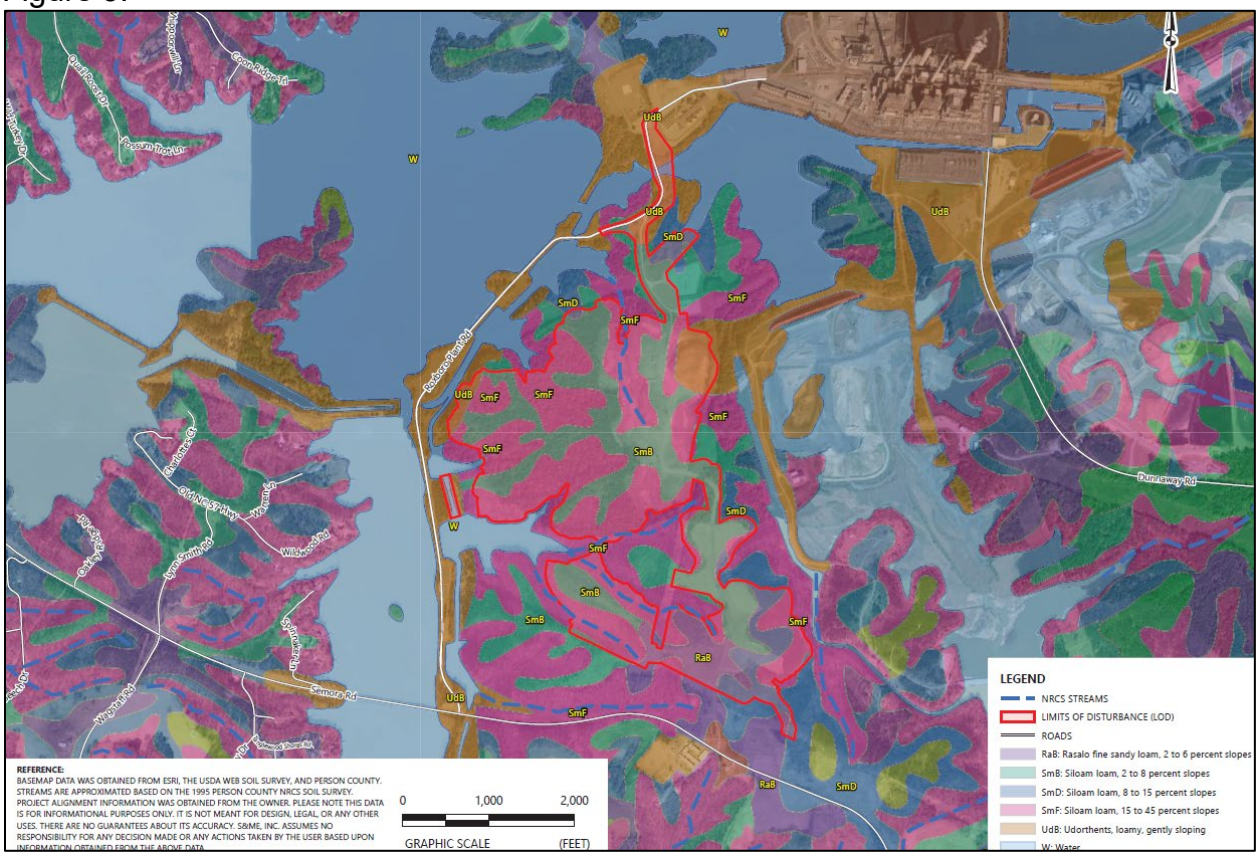


Figure 2.



Soils mapped within the proposed project area/LOD include Rasalo fine sandy loam, 2 to 6 percent slopes (RaB); Siloam loam, 2 to 8 percent slopes (SmB); Siloam loam, 8 to 15 percent slopes (SmD); Siloam loam, 15 to 45 percent slopes (SmF); and Udorthents, loamy, gently sloping (UdB) (Figure 3). These soil types are not considered hydric.

Figure 3.



The dominant terrestrial communities in the project area are ruderal and successional in nature, although smaller areas of pine forest, upland hardwood forest, and mixed pine-hardwood upland forest are also present. Shrub and brushland and open, maintained (grassed) areas encompass disturbed/altered land within the adjacent Roxboro Plant.

Vegetation within the disturbed areas generally includes a mixture of various grasses seeded for quick cover following clearing and grading activities. Some areas have also been left unvegetated and are covered with mulched logging debris. Disturbed areas were also dominated by other herbaceous vegetation, including pokeweed (*Phytolacca decandra*), blackberry (*Rubus allegheniensis*), pale smartweed (*Persicaria lapathifolia*), giant goldenrod (*Solidago altissima*), deertongue grass (*Panicum clandestinum*), common dandelion (*Taraxacum officinale*), dog fennel (*Eupatorium capillifolium*), common thistle (*Cirsium vulgare*), tall wild lettuce (*Lactuca canadensis*), and bush clover (*Lespedeza thunbergi*).

The smaller, undisturbed terrestrial communities within the project area consist of mixed pine-hardwood upland forest and pine forest. The mixed pine-hardwood upland forest abuts most of the streams and wetlands that occur within the project area. The canopy stratum includes loblolly pine (*Pinus taeda*), white oak (*Quercus alba*), northern red oak (*Quercus rubr*a), southern red oak (*Quercus falcata*), sweetgum (*Liquidambar styraciflua*), American beech (*Fagus grandifolia*), and mockernut hickory (*Carya alba*).

Scattered occurrences of Virginia pine (*Pinus virginiana*) are also present in the canopy stratum. The shrub stratum consists of American holly (*Ilex opaca*), sourwood (*Oxydendrum arboreum*), red maple (*Acer rubrum*), ironwood (*Ostrya virginiana*), eastern red cedar (*Juniperus virginiana*), saplings of the hardwood species, and scattered occurrences of Chinese privet (*Ligustrum sinense*), an invasive, noxious shrub species. Understory vegetation, although sparse, includes common greenbrier (*Smilax rotundifolia*), Japanese honeysuckle (*Lonicera japonica*), elephant's-foot (*Elephantopus spp*.), panic grasses (*Panicum spp*.), blackberry (*Rubus spp*.), wild onion (*Allium canadense*), Christmas fern (*Polystichum acrostichoides*), muscadine (*Vitis rotundifolia*), Virginia creeper (*Parthenocissus quinquefolia*), and hardwood saplings.

The pine forest community comprises a canopy stratum dominated by pines and an understory of plant species that are common to the mixed pine-hardwood upland forest. Areas of shrub and brushland and open areas are interspersed with the forested stands within the project area. The vegetation includes a mixture of woody shrubs, grasses, forbs, and vines. Maintained areas are also present throughout the proposed project area. The proposed LOD has large sections of maintained pastures, while maintained rights-of-way (ROW) (i.e., transmission line and roadway ROWs) occur along the eastern edge of the proposed LOD. The project area has large areas of denuded vegetation and maintained areas, including ROWs and areas associated with plant infrastructure.

Wetland plant communities within and adjacent to the project area are primarily classified as headwater forest wetlands (North Carolina Wetland Assessment Method). Within these wetland areas, the canopy stratum includes loblolly pine, sweetgum, red maple, yellow poplar (*Liriodendron tulipifera*), water oak (*Quercus nigra*), American sycamore (*Platanus occidentalis*), eastern redbud (*Cercis canadensis*), green ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*), winged elm (*U. alata*), American hornbeam (*Carpinus caroliniana*), swamp tupelo (*Nyssa biflora*), and/or black willow (*Salix nigra*). The shrub stratum consists of ironwood (*Ostrya virginiana*), tag alder (*Alnus serr*ulata), Chinese privet, and/or saplings of the hardwood species mentioned above. The herbaceous vegetation includes common greenbrier, Japanese honeysuckle, panic grasses, blackberry, Christmas fern, muscadine, poison ivy (*Toxicodendron radicans*), Japanese stiltgrass (*Microstegium vimineum*), soft rush (*Juncus effusus*), cattail (*Typha latifolia*), sedges (*Carex spp*.), Virginia creeper, and/or hardwood seedlings.

PROJECT PURPOSE:

Basic: The basic purpose is to construct a new power plant

Overall: The overall purpose is to construct a new power generating facility to process natural gas to meet energy demand and meet the State's climate goals.

PROPOSED WORK: The applicant requests authorization to construct a combined-cycle natural gas plant at the Roxboro site to assist with electricity demand as Duke

Energy retires its remaining onsite coal-fired units. Construction of the pad to accommodate the combined cycle plant and ancillary components including an access road, will require the permanent discharge of fill material into 1,247 linear feet (LF) (0.172 acre) of stream channel and 0.05 acre of open water. Temporary impacts include 1.31 acre of open water within Hyco Lake.

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

Although complete avoidance of all Waters of the U.S. was not practicable due to the amount of area necessary to construct the plant and the extent/location of on-site features present throughout the overall Duke Energy Progress (DEP) property, the current design will avoid impacts to any of the 27 wetlands and 25 of the 28 streams delineated within the project area.

The proposed LOD has been further reduced to the area necessary for grading and construction. Fill slopes for the mass grading were originally proposed to be 3:1. At this ratio, additional impacts to the open water of the Hyco Reservoir on the western portion of the project would have occurred. There are three areas where the project team worked with the geotechnical engineers to verify that we could utilize a 2.5:1 slope on the pad fill in order to minimize impacts. The fill slope in these areas will require special design and construction techniques to ensure stability. At two locations on the western side of the pad area, the 3:1 slope resulted in direct surface water impacts to Hyco Reservoir, and the revised 2.5:1 slope pulled the toe of the slope back sufficiently and avoided any impact to the open water. The 2.5:1 slope at the third location (east of SB-3) was used to lessen the impacts on the jurisdictional stream S44. Although the steeper fill slope resulted in only a slight decrease in the impacted stream length, only the upper portion of this stream was impacted, so the reduction is still beneficial.

In order to further stabilize the proposed fill slopes, a geotechnically designed retaining wall will surround the area of mass grading along the western/southern portion of the site to further protect adjacent jurisdictional features from impact.

In-stream work will be performed “in the dry”. Additionally, construction equipment operating near the streams will be limited to that necessary for grading, construction, culvert placement, and stabilization activities. Erosion control matting and other E&SC devices made of plastic mesh or twine will not be used along streambanks. The use of biodegradable and wildlife-friendly E&SC devices will be employed where practicable.

As currently proposed, the access road culvert and dissipators have been sited to minimize unavoidable impacts and have been sized according to the necessary flow requirement. The proposed access road is shifting to the east of the existing access road due to a historic site constraint along the existing access road.

To ensure minimization of impacts to water quality, particularly with respect to turbidity, the proposed dredging activities will employ a suite of best management practices (BMP) tailored to site-specific conditions. Potential BMP measures include the installation of a bulkhead or turbidity curtain to contain suspended sediments and prevent dispersion into adjacent waters. Dredge spoil will be disposed of in upland areas wherever feasible, with runoff from spoil piles managed and treated using siltation bags to capture fine particulate matter and further reduce turbidity before any water is discharged.

In addition, efforts will be made to minimize and treat runoff from the dredge spoil pile, employing siltation bags as a primary method of filtration. There is also the possibility of performing the dredging "in the dry," wherein a bulkhead would be constructed and the area dewatered prior to excavation. Dewatering operations would utilize low-horsepower pumps to minimize disturbance, with siltation bags used to treat any discharge water prior to release. These BMPs—individually and in combination—will be implemented as appropriate to maintain compliance with water quality standards and regulatory requirements, and to ensure that dredging is conducted in a manner that minimizes adverse effects on aquatic resources.

The project has been designed to incorporate appropriate E&SC practices outlined in the most recent version of the “North Carolina Erosion and Sedimentation Control Planning and Design Manual” and approved by North Carolina Department of Environmental Quality (NCDEQ) prior to construction. The plan has been designed to accommodate a 25-year storm event rather than the required 10-year storm. DEP will also conduct a pre-construction meeting with the relevant company and contractor personnel and invite NCDEQ personnel to the meeting. Following construction, any temporarily affected areas will be restored in accordance with the accompanying construction documents and other associated permits.

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

A total of 1,916 warm water stream credits would be procured from the North Carolina Division of Mitigation Services (NCDMS), as no private mitigation banks exist within the subject watershed at this time. This proposal is based on the following permanent loss stream impacts at mitigation to impact ratios that vary according to applicant-assessed functional quality (high, medium, and low):

- 815 LF at 2:1,
- 186 LF at 1:1, and
- 200 LF at 0.5:1.

No compensatory mitigation is proposed for open water impacts or permanent impacts to streams that do not result in a loss of waters of the U.S. (e.g. rip rap).

CULTURAL RESOURCES: The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-

specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

Cultural resources that have been determined not 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 by the proposed work. The Corps subsequently requests concurrence from the SHPO and/or THPO.

The applicant previously coordinated with SHPO for review of a Phase I Archaeological Survey Report associated with the proposed project. SHPO responded via email on March 18, 2024 (ER-1034), stating that the one archaeological site recorded within the project area is not eligible for listing in the National Register of Historic Places (NRHP). The applicant also coordinated with SHPO for review of a Historic Structure Survey Report. On December 6, 2023, SHPO concurred via email that the two NRHP-eligible historic properties identified within one-half mile of the project area, the Woodland Elementary School (PR0549) and Wagstaff Farm (PR0295), would not be affected by the proposed undertaking.

The Corps will directly consult with the Tribal Historic Preservation Officers (THPO) of the Monacan Indian Nation, Catawba Indian Nation, and other interested federally recognized Tribes, and share the findings of the archaeological survey.

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: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) and the Corps National Regulatory Viewer to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the North Carolina Division of Water Resources.

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 180 days of the date of this public notice. 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 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
Or, (Physical address): 512 North Salisbury Street, Raleigh, NC 27604

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection

Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to 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 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.

The Wilmington District will receive written comments on the proposed work, as outlined above, until October 22, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at https://rrs.usace.army.mil/rrs or to Rachel Capito at Rachel.A.Capito@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Rachel Capito, 3331 Heritage Trade Drive Suite 105 Wake Forest, North Carolina 27587. Please refer to the permit application number in your comments.

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.