



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
McKenzie “Ken” Howle
Lake Junaluska Assembly, Inc.

Published: March 25, 2025
Expires: April 24, 2025

**Wilmington District
Permit Application No. SAW-2020-00414**

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). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: McKenzie “Ken” Howle
Lake Junaluska Assembly, Inc.
759 North Lakeshore Drive
Lake Junaluska, North Carolina 28745

AGENT: Eric Romaniszyn
EnviroScience, Inc.
145 7th Avenue West
Suite B
Hendersonville, North Carolina 28792

WATERWAY AND LOCATION: The project would affect waters of the United States associated with unnamed tributaries to Richland Creek. The project/review area is located to the west of Sleepy Hollow Drive; at Latitude 35.521040 and Longitude - 82.977430; in Lake Junaluska, Haywood County, North Carolina.

EXISTING CONDITIONS: The project area is fully encompassed within an approximate 86.76-acre parcel owned by the Lake Junaluska Assembly and consists of two habitat types: upland forest and headwater forest. Upland forests are the predominant habitat type in the project area. This habitat is characterized by a dense overstory of trees and sparser understory of new growth, shrubs, and herbaceous layers. Headwater forests are typically characterized by a dense overstory of trees and sparser understory of new growth, shrubs, and herbaceous layers. Some locations have been cleared of trees, which has resulted in a denser understory of shrubs, vines, ground cover, and invasive species.

The northern (upstream) portion of the project area utilized as a sediment disposal area since 2011. Two unnamed tributaries to Richland Creek totaling roughly 1,573 linear feet (0.143 acres) and approximately 0.151-acre of wetlands are present within the project area. Please reference Figure 1 below.

Figure 1.



PROJECT PURPOSE: The project purpose, as provided by the Applicant is: “The purpose of this project is to expand Lake Junaluska Assembly’s existing long-term dredge material disposal area on Sleepy Hollow Road. This will accommodate new dredge material from Lake Junaluska that will be removed each year from approximately February to April for the lifespan of the disposal area. The need for this project is due to excess sediment continuing to accumulate in the reservoir from upstream sources and the lack of other potential disposal areas in the area. The authorization would be to construct an earthen dam to create a new holding cell downstream of the existing holding cells.”

Basic: The basic project purpose, as defined by the Corps is: the expansion of an existing dredged sediment storage area.

Overall: The overall project purpose, as defined by the Corps is: to expand an existing dredged sediment storage area to provide long-term storage capacity for Lake Junaluska annual maintenance dredging spoils.

PROPOSED WORK: The applicant is requesting authorization to discharge fill material into approximately 350 linear feet (0.02-acre) of the unnamed tributary to Richland Creek and 0.009-acre of wetlands for the purpose of expanding the Lake Junaluska Assembly's existing long-term dredge material disposal area. The need for this project is due to the ongoing sediment accumulation in the reservoir from upstream and surrounding sources, the necessity of annual maintenance dredging, and the lack of disposal sites in Haywood County and the surrounding area. The existing permitted disposal area has an estimated life expectancy of less than 10 years. This estimate assumes 5,000 cubic yards (yds³) of material is generated per year.

The existing dredge disposal area is located approximately 0.75-mile (roughly 1,600 linear feet upstream) from Lake Junaluska. The new containment area would be approximately 100 feet downstream of the existing area and would provide additional storage capacity for approximately 127,000 yds³ of dredge spoils. Since it is estimated that 5,000 yds³ of sediment would continue to be removed each year from Lake Junaluska, the new containment area would provide approximately 25 years of storage. There is potential to sell the spoils for fill material once they are dry to extend the lifespan of the basin; however, this reduction is not included since an amount could not be determined or estimated at this time.

For this proposed project, an earthen dam would be constructed within an unnamed tributary to Richland Creek to create the new sediment disposal area. Material to construct the dam would be obtained from the onsite excavation of the basin. The dam would be built in phases and each addition would occur when up to seven feet of dredge material is added, which would be determined by engineering oversight, and would include two feet of freeboard.

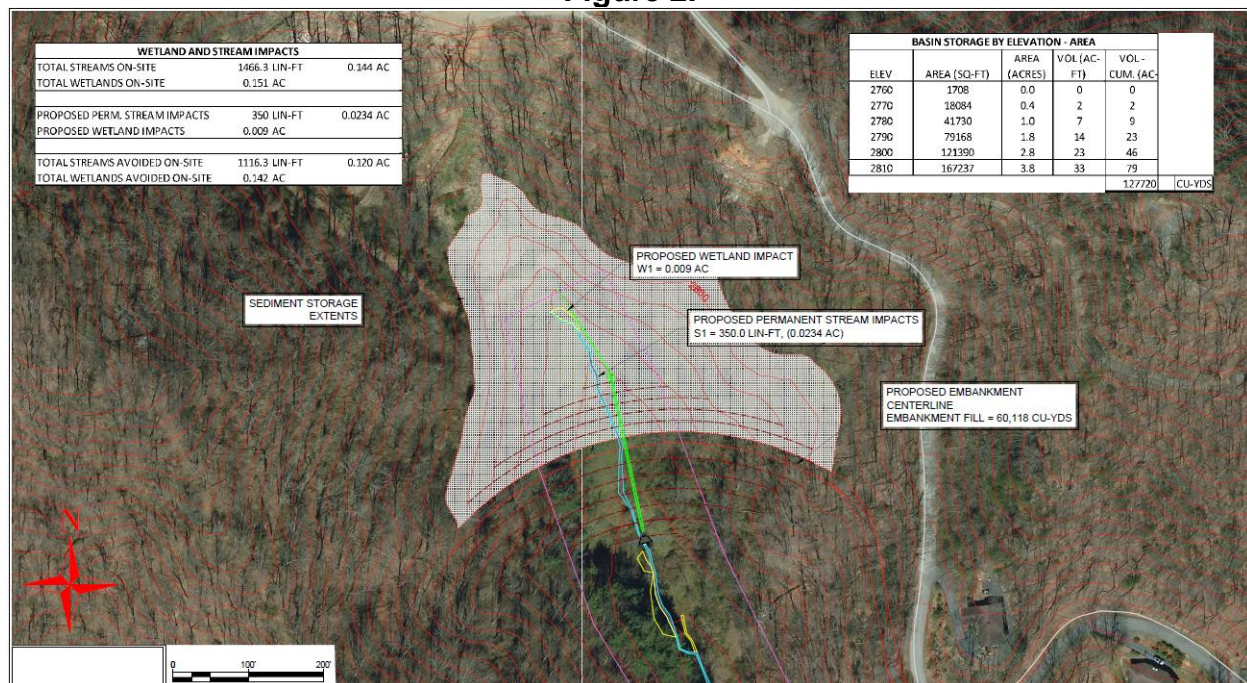
The disposal storage area would be approximately 60 feet tall, include 3 feet of freeboard, and would cover an area of approximately 3.8 acres. The upstream side of the embankment would have a slope of 1.5:1 and the downstream slope would be 2:1. The cell would include an 18-inch HDPE pipe riser that would rise as the basin is filled. Impacts to approximately 350 linear feet (0.0234-acre) of the unnamed tributary to Richland Creek would include a French drain and culverting the stream and roughly 0.009-acre of wetland would be filled from sediment discharge. The French drain and culvert system would be installed in sections under the disposal area and embankment to maintain the transport of water downstream. The storage area would act as a dewatering structure to treat and return water downstream to Lake Junaluska through the unnamed tributary to Richland Creek. The pipe outlet would be protected with a boulder headwall and 12 feet of rip-rap energy dissipator to prevent erosion. The storage area, including discharge pipe and energy dissipator would be located in-line with the stream.

Dredge material would be disposed of in the new cell using the methods currently used by Lake Junaluska. Sediment from the reservoir would be hauled by truck to the top of Sleepy Hollow Road where it would be dumped over the side of the embankment and gravity would carry the material into the holding cell. The dumping site is located such that any stormwater would carry sediment into the disposal basin rather than bypassing the earthen dam. Once the dewatering basin is full, it would be seeded and planted with native vegetation. Please reference Figure 2 below.

Construction access would be via an existing unimproved road near 520 Sleepy Hollow Drive. The road would be reseeded with native grass vegetation upon project completion; however, it would remain an access point if future maintenance or access to the dredge spoils would be required. Typical earth-moving equipment (i.e. backhoe, dump truck, bulldozer, etc.) would be used for constructing the dredge disposal basin and access road and operated from upland areas whenever possible.

The total limit of disturbance would be approximately 5.66 acres, to include the earthen dam and storage area, construction limits of disturbance, and temporary access road. Appropriate erosion and sediment controls would be used and maintained during all construction phases, including silt fence and stabilizing with seed and straw when construction activities are complete.

Figure 2.



AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The proposed project site would utilize and expand an area already impacted by historical dredge disposal from the Lake Junaluska. Expanding the existing

disposal area would minimize impacts that would otherwise occur if a new offsite disposal area were constructed. This location enables vertical expansion because horizontal expansion is not desirable as it would impact more jurisdictional waters.

The Applicant has proposed to construct a large enough containment area to last approximately 25 years and provide a sustainable disposal location for the foreseeable future. The proposed project assumed that removing an average of 5,000 yds³ per year of dredge spoils would continue over that time period. Therefore, the basin was sized accordingly.

The earthen dam would be constructed utilizing soil from within the impoundment area. This would maximize the volume of storage, provide a longer-term solution to the dredge spoils disposal issue, and avert impacts that would occur if the fill dirt was obtained from another site. Also, by choosing this location that maximizes disposal volume on the smallest footprint further minimizes stream and wetland impacts. Construction access would utilize an existing roadbed that would provide easy access to the construction site and require minimal grading and tree clearing and no stream or wetland impacts.

The project, as proposed, would avoid approximately 1,116 linear feet (0.142 ac; 76%) of stream length and approximately 0.120 acres (94%) of wetlands on the project parcel. A summary of the avoidance and minimization of proposed impacts is found in Table 1 below.

Table 1. Avoidance and Minimization

Feature	On-Site Total	Proposed Impact	Total Avoidance	Percent Avoided
Stream	1,466.3 lf / 0.144 ac	350 lf / 0.0234 ac	1,116.3 lf / 0.120 ac	76.1%
Wetland	0.151 ac	0.009 ac	0.142 ac	94.0%

COMPENSATORY MITIGATION: The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The Applicant proposes to mitigate the unavoidable impacts (approximately 350 linear feet of “cold” stream habitat) through payment into the Tarkiln Branch private mitigation bank sponsored by EW Solutions, LLC. Tarkiln Branch is a preservation bank and therefore can typically only provide 25% of credits. However, the Applicant has requested a higher percentage of credit (2:1 or 700 credits) to be purchased from the bank, with the justification that this project helps protect the natural, recreational, and economic benefits the reservoir provides Lake Junaluska residents, the surrounding community and visitors. The remaining credits (1:1 or 350 credits) would be provided by NC Division of Mitigation Services.

CULTURAL RESOURCES: The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act 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 (NRHP) and initially determines that:

No resources listed in or eligible for inclusion in the NRHP are known to be present in the vicinity of the proposed work; however, the permit area has not been formally surveyed for the presence of cultural resources. Additional work may be necessary to identify and assess any cultural resources that may be present. This notice serves as a request to State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and/or other interested parties to provide any information they may have regarding historic properties.

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), 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 may affect species and critical habitat listed below. No other ESA-listed species or critical habitat will be affected by the proposed action.

**Table 2. ESA-listed Species and/or Critical Habitat
Potentially within the Project Area**

Species Common Name	Scientific Name	Federal Status
Indiana Bat	<i>Myotis sodalis</i>	Endangered
Small Whorled Pogonia	<i>Isotria medeoloides</i>	Endangered

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402. The Corps is the lead Federal agency for ESA consultation for the proposed action. Any required consultation will be completed by the Corps.

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.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the 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 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 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 April 24, 2025. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Brooke Davis at brooke.a.davis@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Brooke Davis, 151 Patton Avenue Room 208 Asheville, North Carolina 28801. 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.