

South Carolina Department of Natural Resources

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Alvin A. Taylor
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May 1, 2015

Dr. Richard Darden
U. S. Army Corps of Engineers
69-A Hagood Avenue
Charleston, SC 29403-5107

REFERENCE: P/N SAC-2015-0476-SIR, Berkeley County, Project Soter

Dear Dr. Darden,

Personnel with the South Carolina Department of Natural Resources (DNR) have reviewed the above referenced project and offer the following comments.

Background

Berkeley County (Applicant) is requesting a Section 404 permit with a 25-year duration to facilitate development of a portion of the Camp Hall Commerce Park in Berkeley County for Project Soter, a major, advanced manufacturing facility. The proposed project includes the following wetland impacts: placement of 670,705 cubic yards of clean fill material in 194.76 acres, land clearing of 16.90 acres, excavating of 3.27 acres, and shading of 2.91 acres of wetlands and other waters in order to construct Phases 1 and 2 of the proposed project. Phase 1 will include the development of approximately 23,040,000 ft² of land for the construction of a manufacturing and production space. Phase 1 also involves the development of approximately 1,050,000 ft² of land for the construction of administrative offices and a visitor's center. The total footprint for Phase 1 is approximately 575 acres. Phase 2 will include the development of an additional 14,040,000 ft² of land for the construction of a second manufacturing, assembly, and production space occupying approximately 322 acres. All required compensatory mitigation will be obtained through off-site, landscape-scale permittee-responsible mitigation activities utilizing the watershed approach.

Avoidance and Minimization of Impacts to Waters of the United States

DNR recognizes that for various and legitimate reasons, the ability of the Applicant to avoid and minimize impacts, further than the extent described in the application and supporting documents, is not practicable.

Mitigation for Unavoidable Impacts

The public notice includes a permittee-responsible mitigation plan referred to as the Project Soter – Landscape Mitigation Plan. This plan was designed to achieve landscape-scale conservation objectives

based on the priorities of both local and regional environmental advocacy groups and the Federal and State regulatory and resource agencies. The submitted plan will preserve, restore and enhance approximately 1,533 acres of wetlands within approximately 2,458 acres of property at three separate locations within the Four Hole Swamp watershed.

The specific aspects of the mitigation plan include the following sites:

1. Bannister Tract, consisting of 1,667 acres (431 acres of wetland preservation, 452 acres of wetland enhancement and 28,857 lf of stream preservation),
2. Singletary Tract, consisting of 112 acres (100 acres of wetland preservation and 6,402 lf of stream preservation),
3. Dean Swamp Tract, consisting of 380 acres (94 acres of wetland preservation, 159 acres of wetland enhancement and 4,480 lf of stream preservation), and
4. Walnut Branch Tracts, consisting of 337 acres (265 acres of wetland preservation and 8,193 lf of stream preservation).

DNR is familiar with the sites proposed as mitigation and recognizes they have been identified as important potential conservation/preservation tracts for several decades through various conservation plans developed by the National Audubon Society working with other conservation organizations partnering on landscape-scale conservation in the watershed. This area is of regional, national and international conservation significance, and is located adjacent to the Francis Beidler Forest (RAMSAR site no. 1773) which is one of only two such sites in South Carolina, 37 sites in the United States, and 2,000 sites globally which have been designated by the RAMSAR Convention as *Wetlands of International Importance*.

The watershed contains a variety of strategically important wetlands and coastal plain habitat; the ecological significance of which is well documented. Industrial land uses and urban sprawl pose the greatest threats to natural resources, wetlands and water quality within the watershed. These threats often result in fragmentation of vital fish and wildlife habitats and loss of traditional land uses (forestry, agriculture, wildlife management, fishing and hunting). The watershed links the ACE Basin and CAWS Basin focus areas, thereby, broadening partnership-conservation initiatives across the entire coastal plain of South Carolina. Further, this strategic linking of the greenbelt surrounding development expanding outward from Charleston, North Charleston, Moncks Corner and Summerville will buffer the watershed from future adverse impacts including impacts to wetlands, streams and water quality.

In an effort to further enhance landscape-scale mitigation efforts, the Applicant also proposes to provide \$1.5 million into an escrow account to be held by Lord Berkeley Conservation Trust. The funds are to be used for fee simple property acquisition or conservation easement support on important conservation properties. These funds are to be administered by representatives of Audubon, Lord Berkley Land Trust, and the Low Country Open Land Trust (Fund Oversight Committee – FOC). These funds likely are to be leveraged by the conservation organizations to achieve even significantly greater ecological restoration and conservation outcomes in the watershed.

On April 30, 2015, DNR staff participated in an interagency inspection of the site and the areas proposed as mitigation. DNR concludes through previously gathered information, scientific literature, conservation management experience and as confirmed through site inspections, the areas proposed for mitigation offer, at a minimum, a unique opportunity to:

1. Protect at least 2,496 acres which include opportunities to perform restoration and enhancement of coastal plain streams and wetlands on areas previously managed for intensive timber and wood fiber production,
2. Provide significant opportunity to perform long-term ecological renewal of regionally sensitive habitats important to a variety of threatened and endangered species,

3. Provide necessary buffering of wetlands and streams proposed to be protected, restored and enhanced as well as buffering of sensitive habitats important to species susceptible to disturbance,
4. Provide opportunity to significantly improve water quality within the watershed through stream and wetland restoration, enhancement and buffering as well as long-term ecological renewal and stewardship through protective easements,
5. Provide opportunity to extend preservation and conservation management benefits to adjacent properties,
6. Provide opportunity for land and conservation management efficiency and cost savings to the conservation partners, the DNR and the Francis Biedler Forest,
7. Provide opportunities for long-term, holistic, science-based management of forest ecotypes critical to the habitat requirements of neotropical migrating songbirds and a broad array of wetland dependent birds and other fish and wildlife,
8. Provide private conservation partners leverage opportunity to protect additional adjacent tracts, including significant wetlands, through fee title acquisition and/or conservation easements further linking important riparian corridors,
9. Provide for additional, traditional public use opportunities,
10. Provide for protection of cultural and historical resources that may occur on the properties proposed for preservation as well as properties that may be protected at a later date and as a direct result of the proposed actions, and
11. Provide public conservation education and outreach on the importance of protecting wetlands, streams and water quality both now and for future generations.

The Applicant's plan is uniquely positioned to protect these properties while the ability to do so exists. There is concern over the window of opportunity to complete these and other potentially related actions that remain vital to the local conservation organizations' plans to affect further landscape-scale conservation. If such conservation actions are not completed, the outcome will increase urban sprawl resulting in detrimental impacts of Waters of the United States, water quality, fish and wildlife and their habitats and diminish quality-of-life for citizens.

Application of The Mitigation Rule

The Mitigation Rule (Rule) provides the District Engineer (DE) the discretion to consider mitigation opportunities through preservation as long as the following criteria are met:

1. Resources to be preserved provide important physical, chemical and biological functions and contribute significantly to the ecological sustainability of the watershed,
2. The DE determines preservation is appropriate and practicable,
3. Resources to be preserved are under threat of destruction or adverse modification, and
4. The proposed preservation sites will be permanently protected by a third party conservation easement or title transfer to a state resource agency or land trust.¹

Further, the Rule provides that preservation alone may compensate for permitted impacts "where preservation has been identified as a high priority using the watershed approach...."² The Rule also acknowledges "public interest" factors in mitigation planning.³

The Applicant intends that these sites be titled to qualified land conservation organizations and/or transferred to DNR. The parcel intended eventually for DNR also may be incorporated into the Heritage Trust Program and managed as Heritage Preserve in accordance with a Dedication Agreement. The Heritage Trust Program was established in 1976 under §51-17-10 of the South Carolina Code of Laws to

¹ 33 C.F.R. § 332.3(f).

² 33 C.F.R. § 332.3(h)(2).

³ 33 C.F.R. §332.1(d).

protect lands with unique and outstanding natural and cultural features. The Heritage Trust Program protects, in perpetuity, natural areas that contain unique landforms to include threatened, endangered, or unique plant or animal habitats, outstanding historical or archaeological features, or other unusual or outstanding scientific, educational, aesthetic or recreational characteristics.

DNR agrees with the Applicant's proposed mitigation plan and its objectives. The plan meets the Rule's criteria of preservation mitigation as it:

1. Encompasses outstanding resources based on rigorous scientific and technical analysis,
2. Provides opportunity to protect, restore and enhance important physical, chemical and biological functions and contributes significantly to the ecological sustainability of the watershed,
3. Preserves resources under threat of destruction or adverse modification, and
4. Permanently protects the proposed preservation sites by a third party conservation easement or title transfer to a state or federal resource agency or land trust.

Summary

DNR recognizes the importance of the proposed mitigation tracts in furthering conservation efforts within the Four Holes Swamp Watershed which includes the wetland nature preserve known as Francis Beidler Forest. We reiterate that the Francis Beidler Forest is a nationally and internationally recognized old growth swamp forest of International Importance and an Audubon Important Bird Area. The preserve includes over 16,000 acres of protected wetlands and adjacent upland habitats. The protection of wetland systems such as those proposed in the Project Soter – Landscape Mitigation Plan is vital to the long-term health and sustainability of the Four Holes Swamp Watershed and the Francis Beidler Forest.

DNR believes the proposed mitigation plan will result in profound natural resource benefits through protection of vulnerable wetlands and critical fish and wildlife habitats, while adding to the collective efforts of DNR and its many public and private conservation partners. Our ongoing mission of landscape-scale conservation includes the following three basic features:

1. Identification of a regional system of interconnected lands, wetlands, streams and riparian corridors,
2. Actions organized to achieve and link multiple specific conservation objectives, and
3. Stakeholders who cooperate in a concrete fashion to achieve those objectives.

The proposed project and its mitigation plan presents a unique opportunity to embrace and further this concept while providing indispensable ecological benefits to include wetland and stream protection restoration and enhancement, buffering of wetlands and riparian corridors, water quality enhancement, protection of surface and source water, flood mitigation, storm water management and erosion control, connectivity of sensitive habitats, benefits to unique species, carbon sequestration, preservation of traditional uses, and broad recreational and other public uses.

It has been conclusively demonstrated that landscape-scale conservation encourages ecological resilience and economic sustainability through the use of science-based priorities. Additionally it leverages resources and multi-functionality, is embraced by diverse stakeholders, facilitates reduced land management costs, reduces wildfire-risk potential, achieves watershed/river basin health objectives, utilizes forest products to benefit local economies, and provides public use and enjoyment of natural resources and tourism. Now, it can be used to facilitate the permitting of appropriately sited projects allowing infrastructure and development to proceed. Clearly, implementation of this mitigation plan can be one of the lasting positive legacies affecting the Four-Holes Swamp Watershed.

Dr. Richard Darden
P/N SAC-2015-0476-SIR, Berkeley County, Project Soter
May 1, 2015

Please do not hesitate to contact me at your earliest convenience should you require additional information on this matter.

Sincerely,



Bob Perry
Director, Office of Environmental Programs

c: Kelly Laycock – USEPA
Pace Wilber – NMFS
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