



**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
151 PATTON AVENUE
ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006**

February 4, 2015

Regulatory Division

Action ID: SAW-2013-01159

Ms. Sarah Zambon, County Attorney
Mr. Russell Burrell, County Attorney
Henderson County
1 Historic Courthouse Square, Suite 5
Hendersonville, North Carolina 28792

SUBJECT: Individual Permit Requirement for Proposed Work within a Portion of the Seven Falls Development, Henderson County

Dear Ms. Zambon and Mr. Burrell:

This letter is in reference to your request via e-mail on January 28, 2015, and our discussions during the pre-application meeting on January 22, 2015, pertaining to Henderson County's proposed submittal of a Department of Army (DA) permit application. Your submittal would request authorization for work previously undertaken as well as additional improvements in jurisdictional waters of the United States (WoUS) located within a portion of the residential development known as Seven Falls, on Pleasant Grove Road in the Etowah community of Henderson County, North Carolina. Specifically, the proposed work involves basic road and utility infrastructure improvements to satisfy the County's obligations under their performance guarantee agreement initially signed with the subdivision's development company, Seven Falls LLC. All proposed activities are located within the Phase I residential building lots south of Pleasant Grove Road, also known as the "bonded area" within the Seven Falls development.

As stated in past discussions with the County, the DA permit previously issued by the Corps to Seven Falls LLC was suspended and subsequently revoked in 2010 as a result of the permittee's continued noncompliance with certain terms and conditions of their permit. As a result, impacts undertaken by Seven Falls LLC remain unauthorized and must be either restored to pre-project conditions or authorized by a new permit.

Based on the County's preliminary plans discussed at the January 22nd pre-application meeting, the change in project scope, and lack of a valid DA authorization, the Corps has determined a new Individual Permit (IP) is required to authorize the previous work and improvements proposed by the County within the bonded area. The County (as the applicant) will need to submit an IP application with all necessary supporting documents including, but not limited to: alternative analysis, design plans/drawings, delineation of aquatic resources within

the project area, compensatory mitigation plan, restoration plan of existing impacts to WoUS within the project area that will not be utilized, and a summary of existing impacts to WoUS in the project area.

IPs are issued for activities that have more than minimal adverse impacts to WoUS and the evaluation of each IP application involves a more thorough review of the potential environmental and socioeconomic effects of the proposed activity. An IP requires a full public interest review, including public notices and coordination with involved agencies, interested parties and the general public. Typically the IP process takes four to six months. However, due to the uniqueness and history of the Seven Falls property, additional permit review and processing time is anticipated.

The IP process can be generally summarized as follows:

1. Pre-application coordination;
2. IP application with supporting documents submitted;
3. After receipt of a complete application, Corps issues joint public notice for the Section 404 permit and Section 401 water quality certification;
4. 15-45 day public notice comment period;
5. Opportunity for public hearing, if Corps deems a hearing is in the public's best interest;
6. Corps with the applicant's involvement, reviews comments, evaluates the permit application based on regulations, and completes required documentation; and
7. Corps makes a decision to either issue, issue with conditions, or deny.

An individual State of North Carolina Water Quality Certification is also required for this project and must be issued before a final Corps decision is provided. The North Carolina Department of Environment and Natural Resources, Division of Water Resources, conducts this certification as a requirement of Section 401 of the Clean Water Act.

We appreciate the County's ongoing efforts associated with the Seven Falls site. Should you have any additional questions or concerns, please contact me by phone at 828.271.7980, ext. 222, or via email scott.jones@usace.army.mil.

Sincerely,

A handwritten signature in black ink that reads "Scott Jones". The signature is written in a cursive style with a large, stylized "S" at the beginning.

Scott Jones
Chief
Asheville Regulatory Field Office

cc:

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