

# Public Notice

U.S. Army Corps of Engineers, Norfolk District

March 13, 2013

CENAO-WR-R  
NAO-11-1848 / 13-V0116

## FEDERAL PUBLIC NOTICE

The District Commander has received a joint application for Federal and State permits as described below:

APPLICANT  
Robert D. Foley

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in an unnamed tributary to Leatherwood Creek, to Smith and Dan River and flows to the Chowan River basin / Albemarle Sound, west of State Route 647, in Henry County, Virginia. HUC / 03010103: Axton quadrangle - Lat. 36.42.54 / -78.43.31

PROPOSED WORK AND PURPOSE: This public notice is an evaluation review of an after the fact application for an unauthorized activity. The application involves the review of the six year old construction of an earthen dam, 616 feet long and 41.8 feet high. The dam impounded a perennial stream, thus impacting approximately 1947 linear feet and an undetermined amount of wetlands that may have been associated with the stream system. As per the mitigation rule, the property owner has proposed a conservation easement through Virginia Outdoor Foundation.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ) assuring that applicable laws and regulations pertaining to water quality are not violated. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Sections 401 and 404 of the Clean Water Act (Public Law 95-217) and Title 62.1 of the Code of Virginia.

FEDERAL EVALUATION OF APPLICATION: 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. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The Environmental Protection Agency's "Guidelines for Specification of Disposal Sites for Dredged or Fill Material" will also be applied (Section 404(b) (1) of the Clean Water Act).

The Corps of Engineers 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 direct, indirect, and cumulative 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 and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: Our office is currently coordinating with the US Fish and Wildlife Service regarding potential impacts to federally listed species. There are no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings.

For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR). The consistency certification is not required for this project. It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found here:

**<http://www.deq.state.va.us/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert>**. For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: [ellie.irons@deq.virginia.gov](mailto:ellie.irons@deq.virginia.gov) or [john.fisher@deq.virginia.gov](mailto:john.fisher@deq.virginia.gov).

**COMMENT PERIOD:** Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on April 12, 2013.

**PRIVACY & CONFIDENTIALITY:** Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted in connection with this Public Notice cannot be maintained as confidential by the U.S. Army Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact Scharlene Floyd at 757-201-7367 or email her at [scharlene.afloyd@usace.army.mil](mailto:scharlene.afloyd@usace.army.mil)

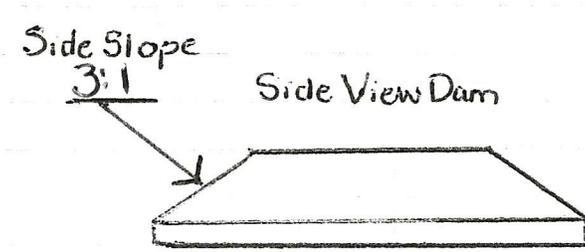
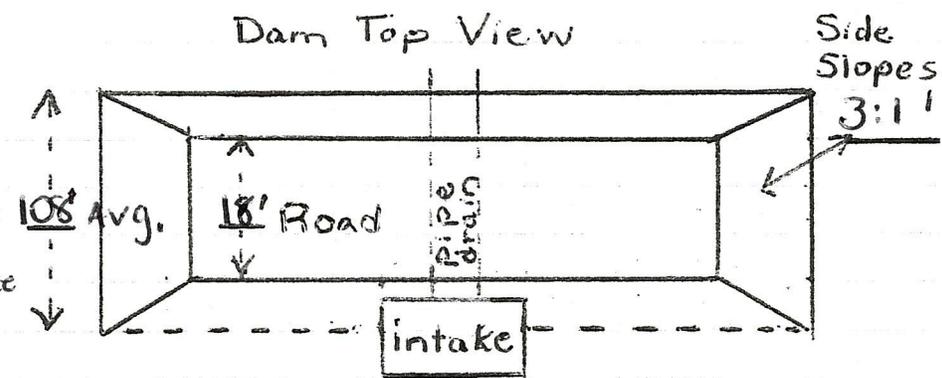
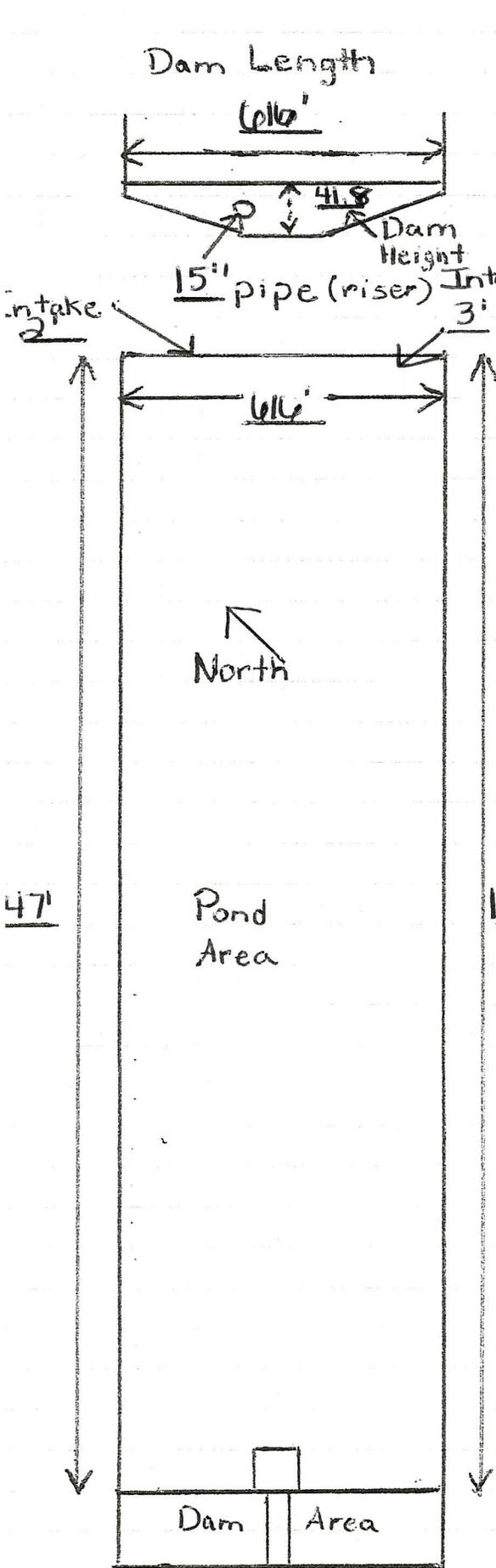
FOR THE DISTRICT COMMANDER:

A handwritten signature in black ink, appearing to read 'R. Henderson'.

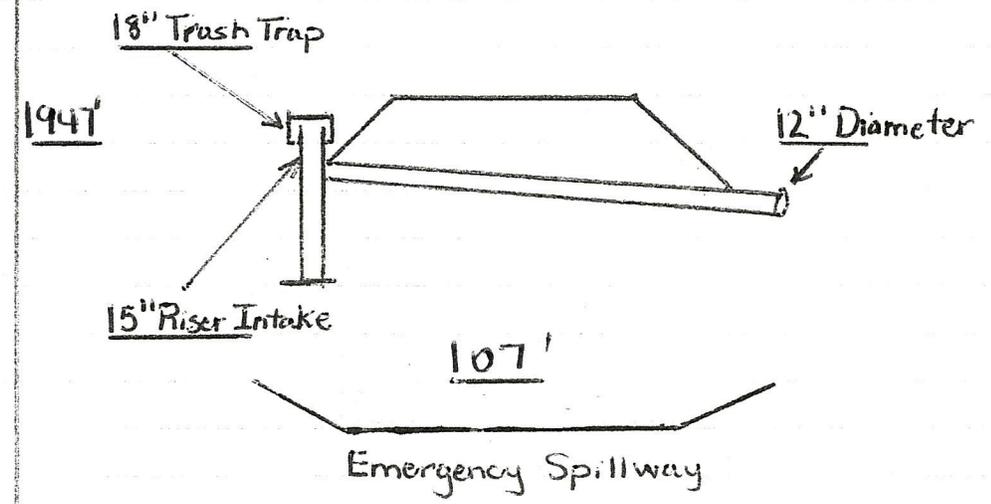
Richard Henderson  
Chief, Enforcement and Compliance Virginia  
Regulatory Section

Attached:  
Drawings  
Aerials before and after construction

# The Big Lonely Pond Henry County, Virginia



Dam Area (Core) Undercut Until Good Clay Foundation Acquired  
Clay Fill Compacted For Dam Area



All Construction Performed With BMP In Mind.  
Silt Fencing Used In All Construction Area.  
Other Than Dam, All Grading Done Inside Of Pond Area. Dam Area Seeded In Fescue And Clover, Fertilized, Limed, and Strawed.



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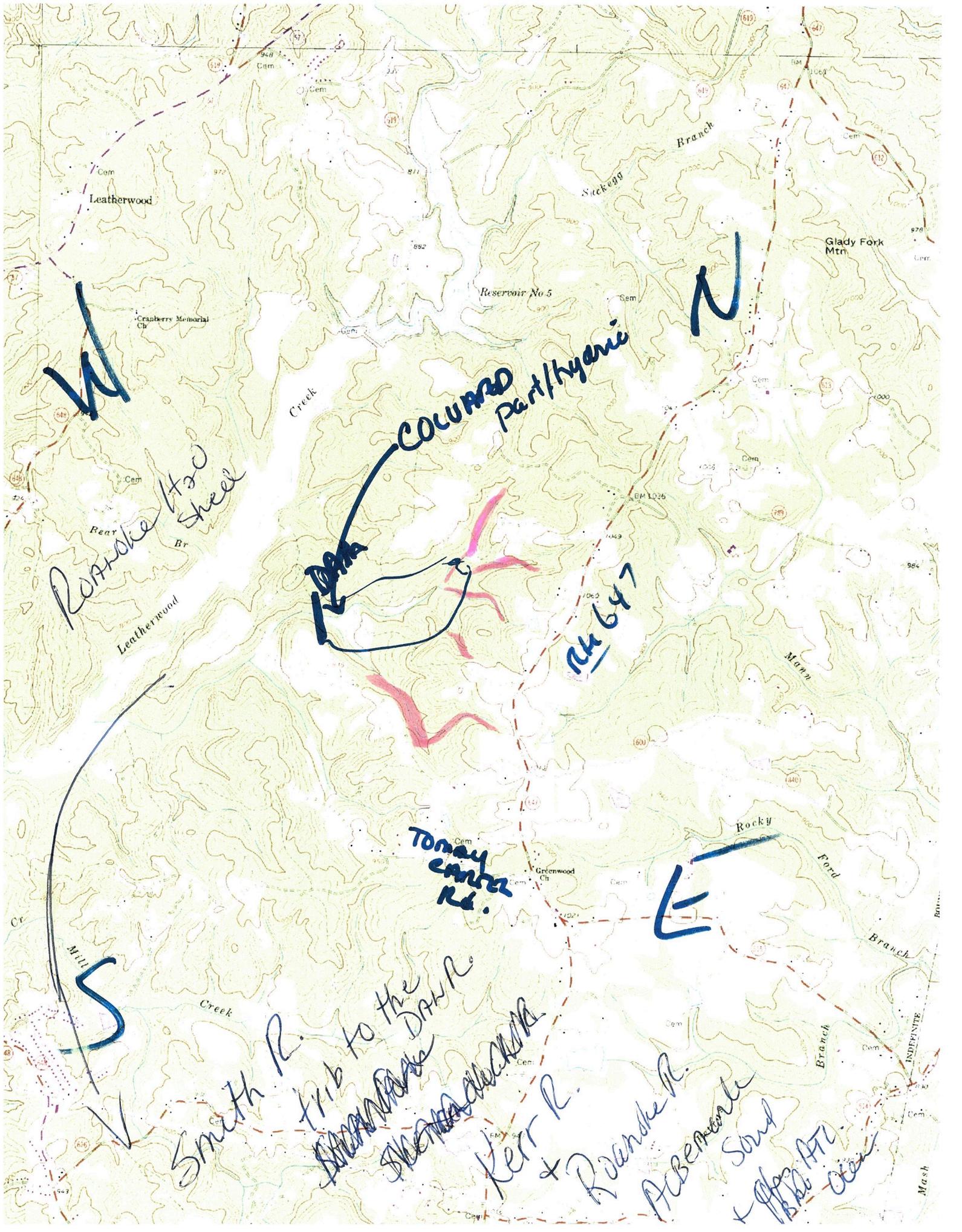
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