



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, WILMINGTON DISTRICT
WILMINGTON REGULATORY OFFICE
69 DARLINGTON AVENUE
WILMINGTON NORTH CAROLINA 28403

July 17, 2024

Regulatory Program/Division

Toni Stewart
PO Box 449
Fayetteville, NC, 28302
tstewart@cumberlandcountync.gov

Dear Toni Stewart - Cumberland County

This letter is in response to your request to the Wilmington District, Wilmington Field Office for an approved jurisdictional determination. The project/review area is located on **Cliffdale Landfill Site 7581 Lowell Harris Road, Fayetteville, NC 27609**, Latitude 35.04270 and Longitude -79.05370; Cumberland County, North Carolina. The review area for this determination is limited to an approximately **60 acre** acre(s) area (optional: comprised of Toni Stewart - Cumberland County parcel (parcel numbers: 9487305518, 9487406015), which is illustrated on the enclosed site maps. This request has been assigned the file number SAW-2024-00801 (**Cliffdale Landfill Site**), This file number should be referenced in all correspondence concerning this project.

Based on our review of the information you furnished, a site inspection conducted on June 26, 2024, and other information available to our office, we have determined the above-referenced area contains 5.34 acre(s) of waters of the United States under U.S. Army Corps of Engineers (Corps) regulatory jurisdiction. These waters are identified in the enclosed site maps and include Memorandum for Record. This determination was made in accordance with the Corps regulatory authority pursuant to Section 404 of the Clean Water Act and based upon criteria contained in the 1987 Corps of Engineers Wetland Delineation Manual and the Atlantic and Gulf Coastal Plain regional supplement. This determination is valid for a period of **five years** from the date of the letter, unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Division Appeals Officer at the address listed on the RFA form. In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received

by the Corps by August 21, 2024. **It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.**

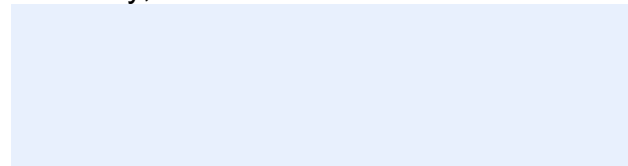
Section 404 of the Clean Water Act requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under navigable waters of the United States.

This determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the review area identified in this request. The determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

You are cautioned that work performed below the mean high water line or ordinary high water line in waters of the United States; and/or, the discharge of dredged or fill material into any areas identified on the enclosed information as within Federal jurisdiction, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from a state or local municipality does not obviate the requirement for obtaining a Department of the Army permit.

If you have any questions concerning this correspondence, please contact Thomas Charles Project Manager of the Wilmington Field Office at (910) 251-4101 by mail at the above address, or by email at thomas.p.charles@usace.army.mil. Please take a moment to complete our customer satisfaction survey located at <https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Sincerely,



Thomas Charles
Project Manager

Enclosures

cc Ashley Bentz, PWS //
Project Scientist
Walter Cole, LSS, REHS
Senior Project Manager
S&ME
3201 Spring Forest Road, Raleigh, NC 27616
M: 919.896.0758 // O: 919.872.2660
www.smeinc.com
c:

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Toni Stewart - Cumberland County		File Number: SAW-2024-00801	Date: 7/17/2024
Attached is:			See Section below
☐	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
☐	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
☐	PERMIT DENIAL WITHOUT PREJUDICE	C	
☐	PERMIT DENIAL WITH PREJUDICE	D	
☒	APPROVED JURISDICTIONAL DETERMINATION	E	
☐	PRELIMINARY JURISDICTIONAL DETERMINATION	F	

SECTION I

The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

District Engineer, Wilmington Regulatory Division
Attn: Thomas Charles
SAW District U.S. Army Corps of Engineers
69 Darlington Avenue
Wilmington, NC 28403

If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:

Krista Sabin
Regulatory Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Atlantic
60 Forsyth Street Room M9
Atlanta, Georgia 30303-8801

Phone: 904-314-9631

Email: Krista.D.Sabin@usace.army.mil

SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

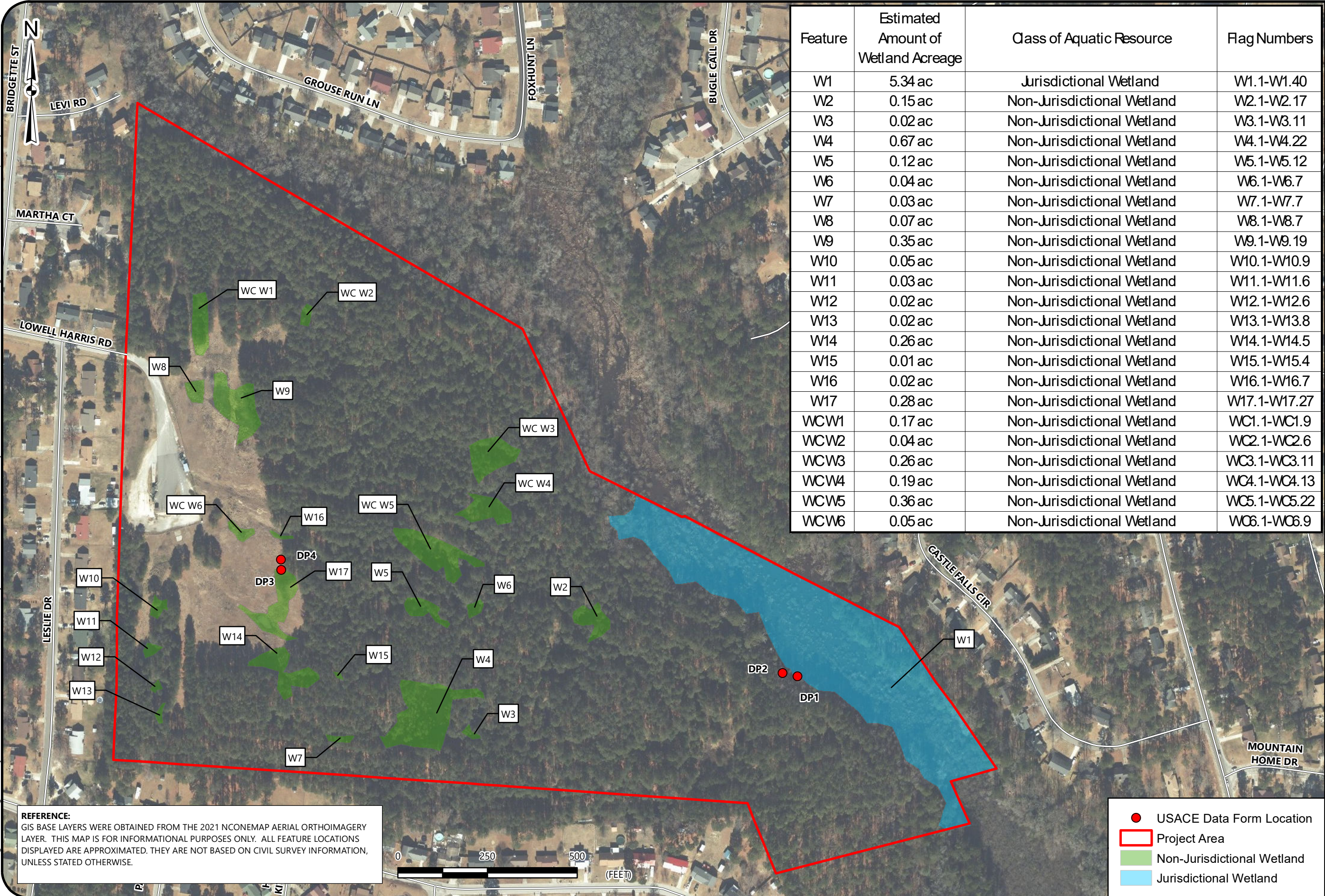
REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

 Signature of appellant or agent.	Date:
Email address of appellant and/or agent:	Telephone number:

Drawing Path: T:\Raleigh-1050\Projects\2023\23050459 - NCDEQ LF-7583 Lowell Harris Rd - Cliffdale LF-7583 Lowell Harris Rd, Fayetteville, NC 28314\ENVA\GIS\Wetland Delineation Figures\FEATURE w all wetlands.mxd plotted by abentz 07-02-2024



Feature	Estimated Amount of Wetland Acreage	Class of Aquatic Resource	Flag Numbers
W1	5.34 ac	Jurisdictional Wetland	W1.1-W1.40
W2	0.15 ac	Non-Jurisdictional Wetland	W2.1-W2.17
W3	0.02 ac	Non-Jurisdictional Wetland	W3.1-W3.11
W4	0.67 ac	Non-Jurisdictional Wetland	W4.1-W4.22
W5	0.12 ac	Non-Jurisdictional Wetland	W5.1-W5.12
W6	0.04 ac	Non-Jurisdictional Wetland	W6.1-W6.7
W7	0.03 ac	Non-Jurisdictional Wetland	W7.1-W7.7
W8	0.07 ac	Non-Jurisdictional Wetland	W8.1-W8.7
W9	0.35 ac	Non-Jurisdictional Wetland	W9.1-W9.19
W10	0.05 ac	Non-Jurisdictional Wetland	W10.1-W10.9
W11	0.03 ac	Non-Jurisdictional Wetland	W11.1-W11.6
W12	0.02 ac	Non-Jurisdictional Wetland	W12.1-W12.6
W13	0.02 ac	Non-Jurisdictional Wetland	W13.1-W13.8
W14	0.26 ac	Non-Jurisdictional Wetland	W14.1-W14.5
W15	0.01 ac	Non-Jurisdictional Wetland	W15.1-W15.4
W16	0.02 ac	Non-Jurisdictional Wetland	W16.1-W16.7
W17	0.28 ac	Non-Jurisdictional Wetland	W17.1-W17.27
WCW1	0.17 ac	Non-Jurisdictional Wetland	WC1.1-WC1.9
WCW2	0.04 ac	Non-Jurisdictional Wetland	WC2.1-WC2.6
WCW3	0.26 ac	Non-Jurisdictional Wetland	WC3.1-WC3.11
WCW4	0.19 ac	Non-Jurisdictional Wetland	WC4.1-WC4.13
WCW5	0.36 ac	Non-Jurisdictional Wetland	WC5.1-WC5.22
WCW6	0.05 ac	Non-Jurisdictional Wetland	WC6.1-WC6.9

- USACE Data Form Location
- ▭ Project Area
- Non-Jurisdictional Wetland
- Jurisdictional Wetland



FEATURE EXHIBIT

CUMBERLAND COUNTY/ CLIFFDALE LANDFILL
7583 LOWELL HARRIS ROAD
FAYETTEVILLE, CUMBERLAND COUNTY, NORTH CAROLINA

SCALE:
1" = 250'
DATE:
7-2-24
PROJECT NUMBER
23050459
FIGURE NO.