



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 2, 2014
Comment Deadline: May 2, 2014
Corps Action ID Number: SAW-2004-01203
NC DOT TIP: R-0623

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation seeking Department of the Army authorization to discharge dredged or fill material into waters of the United States (WoUS), associated with the NC 24/27 Troy Bypass from west of SR 1138 (Dairy Road) to east of the Little River, south of Troy, in Montgomery County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at: <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: North Carolina Department of Transportation (NCDOT)
Project Development and Environmental Analysis Unit
Mr. Richard Hancock
1598 Mail Service Center
Raleigh, North Carolina 27699

Authority

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

- Section 404 of the Clean Water Act (33 U.S.C. 1344)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: The proposed project site is a partial new location, four-lane divided highway located south of downtown Troy, in Montgomery County, North Carolina.

Project Area (acres): ~ 240 ac

Nearest Town: Troy

Nearest Waterway: Little River

River Basin: 03040104

Latitude and Longitude: 35.334610 N, -79.903305 W

Existing Site Conditions

Existing land use in the project corridor consists primarily of rural residential, forested, and agricultural lands.

This project lies within the Piedmont Physiographic Province in the Yadkin-Pee Dee River Basin (Hydrologic Unit Code 03040104). Terrestrial upland communities in the project study area are represented by four major community types: maintained/disturbed, mesic mixed hardwood forest, dry mesic oak hickory forest, and pine plantation. The delineated wetland community types located within the project study area include headwater forest, wet weep, and Piedmont bottomland hardwood forest.

Stream channels within the project study area are classified by the NC DWR as Class C waters with the exception of the Unnamed Tributaries (UT) to Rocky Creek, which are classified as Class C and High Quality Waters (HQW). Jurisdictional features within the R-0623 project study area that will be impacted include two UT's to Rocky Creek, Warner Creek and seven UT's to Warner Creek, three UT's to Turkey Creek, Smithermans Creek and five UT's to Smithermans Creek, Long Branch, Little River, three ponds, 19 riparian wetlands and one non-riparian (isolated) wetland.

There are no designated Outstanding Resource Waters (ORW), Water Supply (I or II) waters, or waters listed on the 2012 303(d) Final List of Impaired Waters within the project study area or within one mile of the project area.

Applicant's Stated Purpose

The purpose of this project is to provide additional roadway capacity, accommodate projected traffic volumes, reduce congestion on main arteries in downtown Troy, and provide better access to NC 24/27.

Project Description

The NCDOT Division of Highways, proposes to construct a partial widening of NC 24/27 and southern bypass to the town of Troy. The widening project begins along existing NC 24/27 west of SR 1138 (Dairy Road) and continues east for approximately 1.3 miles, and turns south for a 4.5 mile new location section (south of downtown Troy), and then ties back into NC 24/27 for an approximate 0.9 mile widening to just east of the Little River. The proposed project is a partial control of access, four lane, shoulder section facility with a divided grassed 46-foot median and totals 6.65 miles in length. This project is included in the NCDOT's Transportation Improvement Program (TIP).

The proposed project would permanently impact 4,867 linear feet of stream channel, 1.22 acres wetlands, 1.37 acres of open waters (ponds), and temporarily impact an additional 747 linear feet of stream.

Proposed impacts (permanent and temporary) to jurisdictional resources are associated with roadway construction practices and include clearing, grubbing, the placement of roadway fill, bank stabilization, pipe placement, excavation, utility line installation and hand clearing of vegetation for overhead power line clearing.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

- NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters will be enforced;
- Use of Design Standards in Sensitive Watersheds for western (Rocky Creek drainage) and eastern (HQW section of Little River drainage) ends of the project;
- Impacts to wetlands, streams, and protected species (i.e. Schweinitz's sunflower) were avoided and/or minimized by adjusting alignments and slopes;
- 2:1 slopes or less would be used in most wetland areas;
- All storm drainage will be diffused and designed for non-erosive velocities before entering stream and wetland areas to the maximum extent practicable;
- Rip rap stabilization on banks of jurisdictional streams will be implemented to reduce erosion;
- Bridging Warner Creek and Little River would reduce permanent stream impacts;
- No deck drains will be used for these crossings. Deck drainage will be collected in storm drain systems off the ends of the bridges and discharged into either grassed ditches or grassed swales before entering the streams.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The R-0623 project would permanently impact 4, 867 linear feet of warm water streams. Of those 4,867 feet, there are 309 linear feet of bank stabilization which do not require compensatory mitigation by the Corps; resulting in 4,558 linear feet requiring Corps mitigation. The applicant proposes to mitigate for unavoidable permanent impacts through payment into the North Carolina Ecosystem Enhancement Program (EEP) in lieu fee. The Corps will require a 2:1 mitigation-impact ratio for 3,117 linear feet and a 1:1 mitigation-impact ratio for 1,441 linear feet of stream impacts.

The project would also permanently impact 1.22 acres of wetlands. The wetland located at permit site 9 (0.03 acre) would not require compensatory mitigation by the Corps, as it is an isolated wetland. The Corps is requiring the applicant to mitigate at a 2:1 ratio for permanent impacts to 1.19 acres of riparian wetlands. In addition to the mitigation required by the Corps and the North Carolina Division of Water Resources (NC DWR), the NC DWR is requiring compensatory mitigation for impacts to the isolated wetland at a 2:1 ratio.

Table1. TIP #R-0623 Compensatory Mitigation Summary required by the Corps

Impact Ratio	Stream Impacts (linear feet)	Wetland Impacts (acre)	Total EEP mitigation required
2:1	3,117	1.19	6,234 lf/2.38 ac
1:1	1,441	---*	1,441 lf---
			7,675 lf/2.38 ac

- NCDWR requires 2:1 mitigation for 0.03 acre isolated wetland impact

Due to the large number of roadway plans associated with this proposal, they are not included with this Public Notice, but can be found at the following website address:

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices.aspx>

If you wish to review these plans in person, please visit the U.S. Army Corps of Engineers Regulatory Field Office at 69 Darlington Avenue, Wilmington, North Carolina, 28403. (Please call in advance to arrange a time for review at (910) 251-4049).

Essential Fish Habitat

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not effect EFH or associated fisheries managed

by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; these structures are the Wooley-Saunders House and the Neal Clark House. In a letter dated May 16, 2006 the North Carolina Department of Cultural Resources, State Historic Preservation Office provided concurrence that the proposed project will have no adverse effect on both aforementioned structures.
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The NC DOT filed an "Adverse Effect Determination" with the Advisory Council on Historic Preservation (ACHP) and developed a Memorandum of Agreement (MOA) between the Federal Highways Administration FHWA, SHPO, NC DOT and the Catawba Indian Nation regarding the data recovery plan and other courses of action for the archaeological site (Site 31MG1910) which would be adversely affected by the proposed bypass project. Correspondence from the ACHP, dated February 19, 2009, and final MOA are included in the FONSI (Appendix B).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the

proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

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

Pursuant to the Endangered Species Act of 1973, the Corps reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information:

- The Corps determines that the proposed project would not affect federally listed endangered or threatened species or their formally designated critical habitat. No effect determination for the red-cockaded woodpecker (*Picoides borealis*) and smooth coneflower (*Echinacea laevigata*).
- The Corps determines that the proposed project may affect, likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat. During formal consultation between Federal Highways Administration and the US Fish and Wildlife Service (US FWS), a Biological Assessment (BA) was completed for Schweinitz's sunflower (*Helianthus schweinitzii*) dated December 2012. The US FWS issued a Biological Opinion (BO) in January 2013. A plan is currently being developed to salvage all Schweinitz's sunflowers affected by the project. The plants will be moved to a location with appropriate habitat within the Uwharrie National Forest, which will be coordinated with the US Forest Service and the North Carolina Plant Conservation Program (NCPCP).
- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

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, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, Transportation Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by May 2, 2014 to:

NCDWR Central Office
Attention: Ms. Amy Chapman, Transportation Permitting Unit
(USPS mailing address): 1650 Mail Service Center, Raleigh, NC 27699-1650

Or,

(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

North Carolina Division of Coastal Management (NCDWM):

Based upon all available information, the Corps determines that this application for a Department of the Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts 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 benefit 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 the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), 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. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; 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 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 (EA) and/or an Environmental Impact Statement (EIS) 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.

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 shall 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, May 2, 2014. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4049.