



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: June 17, 2014  
Comment Deadline: July 17, 2014  
Corps Action ID#: SAW-2009-00655  
NC DOT TIP: R-4903

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 US 701 and NC 87 Bypass interchange project, south of Elizabethtown, in Bladen 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 located at the existing interchange of NC Highway 87 Bypass and US Highway 701, in Bladen County, North Carolina.

Project Area (acres): ~ 30 ac                      Nearest Town: Elizabethtown  
Nearest Waterway: Brown's Creek              River Basin: 03030005  
Latitude and Longitude: 34.603485 N, -78.617293W

## **Existing Site Conditions**

Existing land use in the project corridor consists primarily of NC DOT roadways, and forested and agricultural lands.

This project lies within the Middle Atlantic Coastal Plain eco-region in the Cape Fear River Basin (Hydrologic Unit Code 03030005). Terrestrial upland communities in the project study area are represented by three major community types: maintained/disturbed, bottomland hardwood forest, and mixed pine/hardwood forest.

Stream channels within the project study area are classified by the NC DWR as Class C waters. Jurisdictional features within the R-4903 project study area that will be impacted include five unnamed tributaries (UT's) to Brown's Creek, four riparian wetlands and three non-riparian wetlands.

There are no designated High Quality Waters (HQW), 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 improve safety and capacity of the NC 87 Bypass/US 701 intersection within the study area.

## **Project Description**

The NCDOT, Division of Highways, proposes to replace the existing at grade intersection at the NC 87 Bypass/US 701 intersection with a grade-separated interchange. This project is included in the NCDOT's 2009-2015 Transportation Improvement Program (TIP). NC DOT proposes to carry NC 87 over US 701 on a bridge, relocate US 701 to the east in order to maintain traffic at the existing intersection during construction, replace bridge number 3 along US 701 over Brown's Creek, and widen US 701 to a two-to-three lane, roadway, with a raised median from approximately 1,800 feet south of the existing NC 242 intersection to north of Brown's Creek. Turn lanes will be provided on

US 701 at the proposed interchange ramps and the relocated NC 242 intersection. NC 242 will be relocated to intersect US 701 approximately 800 feet south of its current location. The proposed design speed for NC 87 Bypass is 60 miles per hour (mph), while US 701 has a proposed design speed of 50 mph.

The proposed project would permanently impact 1,054 linear feet of stream channel, 0.60 acre of wetlands, and an additional 0.03 acre wetland for temporary fill necessary for construction.

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, and mechanized land clearing in wetlands.

### **Avoidance and Minimization**

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

- Bank stabilization at culvert outlets are designed to avoid stream bed impacts;
- Impacts to wetlands and streams were avoided and/or minimized by adjusting alignments and slopes; 3:1 slopes or less would be used in wetland areas where practical;
- All storm drainage will be diffused and designed for non-erosive velocities before entering wetland areas to the maximum extent practicable;
- Grass swale treatments are incorporated into areas where flat slopes can be maintained;
- Cross pipes in jurisdictional streams will be buried 1 foot;
- Culverts will be buried 1 foot for fish passage;
- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters;
- Hand clearing, rather than mechanized clearing, will be used where possible.
- NC DOT shall require its contractors to identify all areas to be used for borrow and waste material. Documentation of the location and characteristics of all borrow and disposal sites will be available to the USACE upon request.

### **Compensatory Mitigation**

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

The R-4903 project would permanently impact 0.60 acre (0.41 acre of riparian and 0.19 acre of non-riparian) of wetlands and 1,053 linear feet of warm water streams. Of those 1,053 feet, there are 49 linear feet of bank stabilization which do not require compensatory mitigation by the Corps; resulting in 1,004 linear feet requiring Corps mitigation. The applicant proposes to mitigate for unavoidable permanent impacts

through payment into the Privateer Farms Wetland and Stream Mitigation site. The Corps will require a 2:1 mitigation-impact ratio for impacts to 1,004 linear feet of stream and 0.60 acre of wetland.

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;

- 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 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.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.
- 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 July 17, 2014 to:

NCDWR Central Office  
Attention: Ms. Amy Chapman, Transportation Permitting Unit  
(USPS mailing address): 1650 Mail Service Center  
Raleigh, North Carolina 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, July 17, 2014. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4049.