



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: May 1, 2015  
Comment Deadline: June 1, 2015  
Corps Action ID Number: SAW-2008-03229

The Wilmington District, Corps of Engineers (Corps) received an application from North Carolina Department of Transportation, Attn: Mr. Richard W. Hancock, P.E., Manager, Project Development and Environmental Analysis Branch, 1548 Mail Service Center, Raleigh, North Carolina 27699-1548 seeking Department of the Army authorization for the permanent impact to 4,273 linear feet (lf) of stream channel (of which 956 lf of impact is for stream stabilization) , the temporary impact to 631 lf of stream channel and the impact to 0.41 acres of wetlands (0.3 acres of permanent fill, 0.04 acres of excavation, and 0.07 acres of hand clearing), associated with proposed Interstate 85 (I-85) Widening and Interchange Improvements Project (TIP Project No. I-3802A). The proposed project is located along an approximately 7.6 mile corridor along existing I-85 from north of NC 73 (Davidson Highway/Exit 55) to north of SR 2180 (Lane Street/Exit 63), in Cabarrus and Rowan Counties, 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,  
Project Development and Environmental Analysis Unit  
Attn: Mr. Richard W. Hancock, P.E., Manager  
1548 Mail Service Center  
Raleigh, North Carolina 27699-1598

## 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 is located along existing I-85 from north of NC 73 (Davidson Highway/Exit 55) to north of SR 2180 (Lane Street/Exit 63), in Cabarrus and Rowan Counties, County, North Carolina.

Project Area: Approximately 7.6 miles

Nearest Town: Kannapolis

River Basin: Yadkin Pee-Dee (03040105)

Latitude and Longitude: Northern starting point -80.567435W 35.513744N

Southwestern ending point -80.644467W 35.438618N

Nearest Waterways: Irish Buffalo Creek, Threemile Branch, Cold Water Creek and Lake Fisher (impoundment of Cold Water Creek)

## **Existing Site Conditions**

The project area occurs along an existing highway corridor. The project area lies within the Piedmont physiographic province of North Carolina. Jurisdictional features within the project footprint are located in the Yadkin Pee-Dee River Drainage Basin (United States Geological Survey [USGS] Hydrologic Unit Code [HUC] 030401 05) in Cabarrus and Rowan Counties. Jurisdictional streams that will be impacted by this project include Irish Buffalo Creek and 6 unnamed tributaries (UTs) of Irish Buffalo Creek, and 5 UTs of Threemile Branch, Cold Water Creek and 11 UTs of Cold Water Creek and 9 UTs of Lake Fisher (impoundment of Cold Water Creek). There are no designated High Quality Waters, Outstanding Resource Waters, Water Supply I, Water Supply II, or Trout Waters occurring within 1.0 mile of the project area. No Anadromous Fish Spawning Areas or potential habitat areas are located near or within the project study area. Within 1.0 mile of the construction footprint, Irish Buffalo Creek is listed as a 303(d) water in the 2014 Final North Carolina 303(d) List of Impaired Waters of North Carolina. Irish Buffalo Creek is listed as impaired due to copper.

## **Applicant's Stated Purpose**

The applicant's stated purpose is as follows:

The primary purpose of the proposed project is to improve level of service (LOS) on I-85 and its interchanges in the project area. The project is part of a multi-faceted solution to address congestion and capacity problems along the I-85 corridor in and near the Charlotte metropolitan area. Traffic analysis shows that traffic demand along I-85 for most of the study area either approaches or exceeds the roadway capacity limits. If no improvements are made the entire length of I-85 in the study area is expected to approach or exceed roadway capacity limits by 2035. The project increases the number of travel lanes on I-85 to eight lanes in Cabarrus County and Rowan County, respectively.

Reconstructing the interchange at the US29/60 1 Connector will allow it to meet current design standards and replace a structurally deficient bridge. Proposed modifications also would improve overall traffic operations at the interchange. The improvements would increase the distance between the interchange and local driveways and intersections, thereby reducing the number of conflict points and providing additional capacity for drivers in the interchange vicinity.

## **Project Description**

The North Carolina Department of Transportation (NCDOT) proposes to add four additional travel lanes (two in each direction) to Interstate 85 (I-85) along a 7.6 mile corridor from north of NC 73 (Davidson Highway/Exit 55) to north of SR 2180 (Lane Street/Exit 63). The project involves widening the existing four-lane freeway to eight lanes, which will match the existing lane configuration at the northern terminus at NC 73 (the start of NCDOT TIP Project No I-3803). Additionally, the project proposes to improve existing interchanges. The proposed interchange improvements are as follows:

- Removal of the existing loops, ramps, and collector/distributor lanes along I-85 at the US 29/601 Connector (South Cannon Boulevard/N01th Concord Parkway) and replacing them with a Diverging Diamond Interchange (DDI).
- Removal and replacement of the dual, three-lane bridges over I-85
- The construction of an improved Diamond with Directional Ramp at the SR 2126 (Dale Earnhardt Boulevard) intersection, which will provide a relocated, elongated loop, along with removal and modification of existing ramps and inclusion of a new directional on-ramp for I-85 southbound traffic.
- Shift to the existing horizontal alignment of Lane Street and inclusion of a Diamond Interchange with roundabouts incorporated into the ramp termini.

The project additionally includes bridge work: a new bridge carrying SR 1790 (Winecoff School Road) over the Norfolk Southern Railroad tracks, closure of the existing at-grade crossing, removal of the SR 2001 (South Ridge Avenue) bridge over I-85 and the proposed replacement of the SR 2000 (Brantley Road) bridge over I-85 and a shift in the horizontal alignment. And lastly the project proposes the widening of shoulder sections throughout the project on both the L-line and Y-lines in compliance with current design standards.

## **Avoidance and Minimization**

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

The Categorical Exclusion (CE) document estimated a total of 9,230 linear feet of stream impacts and 1.7 acres of wetland impacts. After final design, stream impacts have been reduced to 4,273 linear feet of permanent stream impacts and 631 linear feet of temporary stream impacts, for a total of 4,904 linear feet of jurisdictional stream impact. Overall wetland impacts for the construction footprint of the project have also been reduced to 0.3 acres of permanent fill, 0.04 acres of excavation, and 0.07 acres of hand clearing.

The applicant further listed multiple other avoidance and minimization efforts which are summarized below:

- The enforcement of NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters.
- The employment of Design Standards in Sensitive Watersheds;
- The utilization of NCDOT's BMPs for Construction and Maintenance Activities
- Project design incorporating widening within the median and/or existing right-of-way to the extent practicable to minimize the amount of impacts to areas which are currently undisturbed;
- Using steeper fill slopes (2: 1) to minimize stream and wetland impacts which resulted in the minimization of impacts to Irish Buffalo Creek (BC) and minimization of impacts to a substantial section of Cold Water Creek (SE) that runs parallel to I-85;
- The utilization of a Stormwater Management Plan which includes multiple other methods that attempt to minimize impacts to the natural environment.

### **Compensatory Mitigation**

NCDOT is proposing mitigation to off-set impacts to 3,130 lf of stream channel via payment to North Carolina Division of Mitigation Services (NCDMS) sufficient to provide for mitigation at a 2:1 ratio (mitigation to impacts) for 1,823 lf of stream channel and 1:1 ratio for 1,307 lf of stream channel. NCDOT further proposes to off-set impacts to 0.34 acres of riparian wetlands via payment to NCDMS sufficient to provide for mitigation at a 2:1 ratio.

Additional information provided by NCDOT regarding mitigation is summarized below:

The project will permanently impact 4,273 lf of warm water streams. Of the 4,273 lf of proposed impact, 956 lf would result from stream bank stabilization and mitigation is not proposed for the stabilization impacts. Additionally, no mitigation is proposed for a proposed impact to 187 lf of Stream SEF (Site 19) which is currently a concrete lined channel.

### **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; however, the undertaking will have no adverse effect on these historic properties. 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; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).
- 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, specifically the Northern Long-Eared bat (*Myotis septentrionalis*; NLEB). The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- 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 June 1, 2015 to:

NCDWR Central Office  
Attention: Ms. Amy Chapman, Transportation Permitting Unit  
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

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

### **North Carolina Division of Coastal Management (NCDCM):**

- The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a

certification to the Corps and the NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the NCDCM.

Based upon all available information, the Corps determines that this application for a Department of 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, June 1, 2015. Comments should be submitted to Crystal Amschler, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980 ext 231.