



**US Army Corps
of Engineers**
Wilmington District

NCDOT / NCTA Monroe Bypass Union and Mecklenburg Counties, NC (Regulatory)

- **Proposed Monroe bypass highway**
- **4th Circuit Court ruled NEPA requirements were not followed**
- **Corps has suspended permit while NCDOT/NCTA develops new course of action**



CONGRESSIONAL DISTRICT: NC-8, NC-9

DATE: 8 April 2013

1. PURPOSE:

To provide information concerning the Monroe Bypass located in Mecklenburg and Union Counties, North Carolina Turnpike Authority/North Carolina Department of Transportation (NCDOT) STIP No. R-2559 and R-3329, State Project No. 8.T690401 (Corps Action ID SAW-2009-0876). The bypass is proposed as a new location roadway from US 74 at I-485 in eastern Mecklenburg County to US 74 near the town of Marshville in Union County.

2. BACKGROUND:

a. The Corps of Engineers reached a final decision to issue the permit for the Monroe Bypass to the North Carolina Turnpike Authority (NCTA) on April 15, 2011. The Southern Environmental Law Center (SELC) filed suit against the Federal Highway Administration (FHWA) and State of North Carolina alleging that information provided in the Final Environmental Impact Statement (FEIS) was inadequate and incomplete, thereby invalidating FHWA's National Environmental Policy Act (NEPA) documentation and the NC Division of Water Quality's (NCDWQ) Section 401 Water Quality Certification issued for the project. A final decision on the federal complaint was rendered on October 25, 2011, by Chief United States District Court Judge James Dever which denied the plaintiff's motion for summary judgment and the court ruled in favor of NCDOT and NCTA by finding that their analysis complied with NEPA.

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- b. The SELC immediately appealed this decision to the 4th Circuit Court of Appeals, which on May 3, 2012, vacated and remanded the lower court ruling by finding that NCDOT and FHWA did violate NEPA by failing to disclose critical assumptions underlying their decision to build the road and instead provided the public with incorrect information.
- c. By letter dated May 21, 2012, at the request of NCDOT, the Wilmington District suspended the 404 authorization for the Monroe Bypass. NCDWQ withdrew the 401 Certification for the Monroe Bypass on June 8, 2012.

3. **CURRENT STATUS:**

- a. The NCDOT has held monthly project update meetings since June 2012, to inform the agencies of their progress.
- b. NCDOT/FHWA has not given a definitive course of action on the type of NEPA document they intend to prepare to address the 4th Circuit's ruling.
- c. The Corps of Engineers is currently reviewing information presented by SELC dated October 23, 2012 and November 30, 2012, in order to determine the appropriate next steps with regard to the 404 permit. SELC requests that we revoke the permit. At this time, the permit remains suspended.