

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Action ID No. 199403620

March 10, 2003

PUBLIC NOTICE

The NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT), c/o Dr. GREGORY J. THORPE, PHD, MANAGER, PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS BRANCH, 1548 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1548 HAS APPLIED FOR A DEPARTMENT OF THE ARMY PERMIT TO DISCHARGE FILL MATERIAL INTO 98.2 ACRES OF JURISDICTIONAL WETLANDS IN THE HEADWATERS OF PRINCE GEORGES CREEK, SMITH CREEK AND OTHER UNNAMED TRIBUTARIES TO THE NORTHEAST CAPE FEAR RIVER AND THE ATLANTIC INTRACOASTAL WATERWAY TO CONSTRUCT THE I-40 CONNECTOR FROM PORTERS NECK TO I-40 INCLUDING THE WIDENING OF US HIGHWAY 17 FROM PORTERS NECK TO SCOTTS HILL LOOP ROAD, WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA (TIP PROJECT NO. R-2405A).

The following description of the work is taken from data provided by the applicant and from observations made during site visits by representatives of the Corps of Engineers.

History: The State Environmental Assessment (SEA) prepared by the North Carolina Department of Transportation (NCDOT) describing this project was approved on June 14, 1994 and on December 17, 1998, a State Finding of No Significant Impact was prepared (FONSI). As described in the SEA, the original project extended from I-40 to NC Highway 17 at Porters Neck and included the widening of US Highway 17 to four lanes to NC Highway 50 in Holly Ridge in Pender County. The widening of US Highway 17 from Porters Neck to Holly Ridge was subsequently addressed in a separate FONSI dated November 1, 1994. With the exception of the section between Porters Neck and Scotts Hill Loop Road, US Highway 17 has been widened to four-lanes including a five-lane section through Hampstead. Impacts to waters and wetlands associated with these projects have been considered under separate permit actions.

The project now being considered for authorization is a four-lane, median divided facility entirely on new location between I-40 and US Highway 17 and includes the widening of US Highway 17 to four-lanes between Porters Neck and Scotts Hill Loop Road in Pender County.

The project will connect to the eastern terminus of the Wilmington Bypass interchange at I-40 and will require the construction of a new interchange at US Highway 17 at Porters Neck. The proposed median width will be 46 feet with embankment slopes at 4:1. Flatter slopes on this project are being proposed to preclude the need for additional shoulder widths to accommodate guardrail. NCDOT has replaced its initial proposal to construct a storm water facility adjacent to

Scotts Hill Loop Road to carry runoff from a portion of the US 17 widening with a new stormwater facility located adjacent to Scotts Hill Loop on the property of the Scotts Hill Baptist Church. The new facility will not impact any wetlands.

The new location portion of the I-40 Connector traverses a broad, relatively flat interstream divide wetland system in the headwaters of Prince Georges Creek, Island Creek, Smith Creek, Pages Creek and Futch Creek. Dominant vegetation includes pond pine (*Pinus serotina*), loblolly pine, (*P. taeda*), Sweet gum (*Liquidambar styraciflua*), red maple (*Acer rubrum*) and a variety of broad leaved, evergreen shrubs including fetterbush (*Lyonia lucida*) and gallberry (*Ilex glabra*, *I. coriacea*). Prevalent soil types include Murville mucky sands and Leon fine sands. With the exception of the channelized headwater of Prince Georges Creek at the western end of the project, no jurisdictional streams will be impacted by the proposed project.

Construction of the proposed project will permanently impact 98.2 acres of wetlands and 173.2 feet of stream associated with Prince Georges Creek. Permanent impacts to jurisdictional wetlands are summarized as follows:

Wet Pine Flatwoods	93.9 acres
<u>Bottomland Hardwoods</u>	<u>4.3 acres</u>
Total Wetland Impacts	98.2 acres

NCDOT is proposing to use the Dale Tract, the Corbett Tract, and the Haws Run Tract in the following forms and amounts to provide any necessary compensatory mitigation for the unavoidable wetland impacts associated with this project:

<u>Community</u>	<u>Impacts</u>	<u>Site</u>	<u>Amount</u>
Wet Pine Flats	93.9 ac	Dale Tract	93.9 acres restoration
Wet Pine Flats		Corbett Tract	467.0 acres preservation
Bottomland Hardwood	4.3	Haws Run	4.3 acres restoration
Bottomland Hardwood		Corbett Tract	26.0 acres preservation

In order to compensate for the unavoidable 173.2 feet of stream impacts associated with Prince Georges Creek, the NCDOT proposes to utilize the North Carolina Wetland Restoration Program (WRP) to provide 352 feet of compensatory stream mitigation.

The purpose of the work is to provide a freeway connection to the Wilmington Bypass to allow through traffic to avoid Market Street and the greater Wilmington urban area. A map showing the location of the proposed road and the location of the three proposed mitigation sites are included with this public notice. The SEA and FONSI, complete set of plan sheets, and the

complete mitigation proposal and plans may be inspected at the U.S. Army Corps of Engineers, Regulatory Division office, 69 Darlington Avenue, Wilmington, North Carolina between the hours of 8:00 am and 4:30 pm Monday through Friday.

The applicant has determined that the proposed work is consistent with the North Carolina Coastal Zone Management Plan and has submitted this determination to the North Carolina Division of Coastal Management (NCDCM) for its review and concurrence. This proposal shall be reviewed for the applicability of other actions by North Carolina agencies such as:

- a. The issuance of a Water Quality Certification under Section 401 of the Clean Water Act by the North Carolina Division of Water Quality (NCDWQ).
- b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by the North Carolina Division of Coastal Management (NCDCM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the North Carolina Division of Coastal Management (NCDCM) or their delegates.
- d. The issuance of an easement to fill or otherwise occupy State-owned submerged land under North Carolina General Statute 143-341(4), 146-6, 146-11, and 146-12 by the North Carolina Department of Administration (NCDA) and the North Carolina Council of State.
- e. The approval of an Erosion and Sedimentation Control Plan by the Land Quality Section, North Carolina Division of Land Resources (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 A-50-66).

The requested Department of the Army (DA) permit will be denied if any required State or local authorization and/or certification is denied. No DA permit will be issued until a State coordinated viewpoint is received and reviewed by this agency. Recipients of this notice are encouraged to furnish comments on factors of concern represented by the above agencies directly to the respective agency, with a copy furnished to the Corps of Engineers.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The District Engineer's initial determination is that the proposed project would not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The I-40 Connector alignment will have no direct impact on structures of historical or architectural importance. However, one National Register architectural property is located along the US 17 portion of the project. The Poplar Grove/Foy House is located just east of US 17 near Scotts Hill Loop Road. The National Register Boundaries of this site encompass 14.8 acres. Improvements to US 17 in this area will be constructed west of the existing roadway and, according to the applicant, should not directly impact this site. Potential impacts to this property, or any other registered properties, or properties listed as being eligible for inclusion on the latest published version of the National Register of Historic Places, identified during the review of this project, will be coordinated, as appropriate, with the SHPO. Consultation of the National Register is the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of any other such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work authorized by the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973. According to information provided by the applicant, the NCDOT has continued to work on the conservation measures outlined in the biological opinion issued by the U.S. Fish and Wildlife Service (USFWS) on May 22, 2002 on the effects of the proposed project on rough-leaf loosestrife (*Lysimachia asperulaefolia*).

The decision, whether to issue a permit, will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that may be expected to accrue from the proposal must be balanced against its foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore decided by the outcome of the general balancing process. That decision should reflect the national concern for both protection and use of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects of it. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (according to Executive Order 11988), land use, navigation, shore 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 placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer decides that it would be contrary to the public interest.

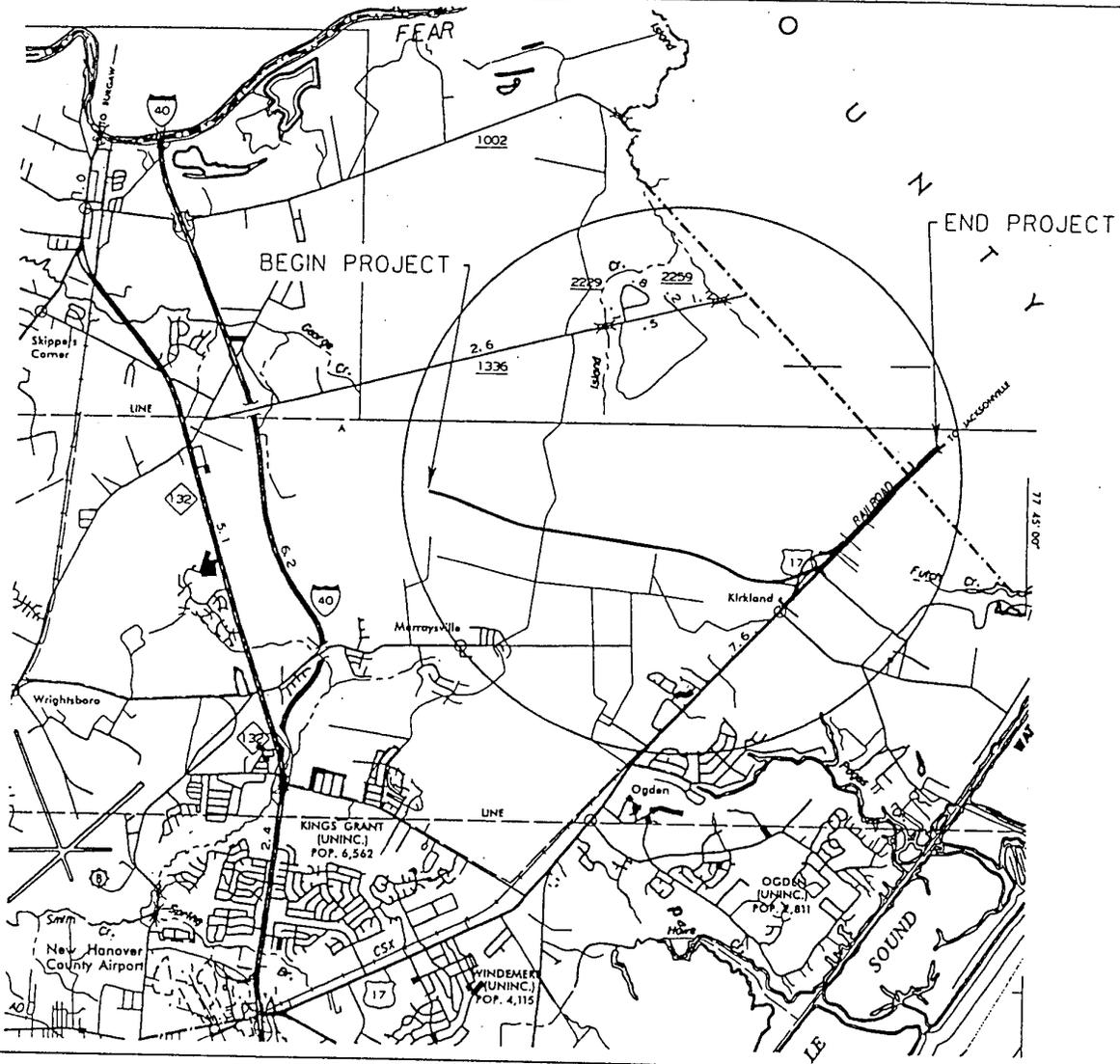
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to decide whether 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 decide the need for a public hearing and to decide the public interest of the proposed activity.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

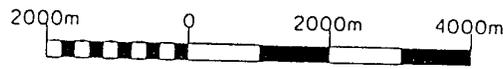
Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Environmental Operations Section, North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons wanting to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1621 Mail Service Center, Raleigh, North Carolina 27699-1621, on or before April 2, 2003, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Dave Timpy, until 4:15 p.m., April 9, 2003.



VICINITY MAP



N.C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 NEW HANOVER & PENDER COUNTY
 PROJECT 6.27900IT (R-240)
 US 17 FROM EAST OF I-40
 WILMINGTON TO 0.26 MI NORTH
 OF SR 157 (SCOTTS HILL LOOP)

SHEET / OF 83

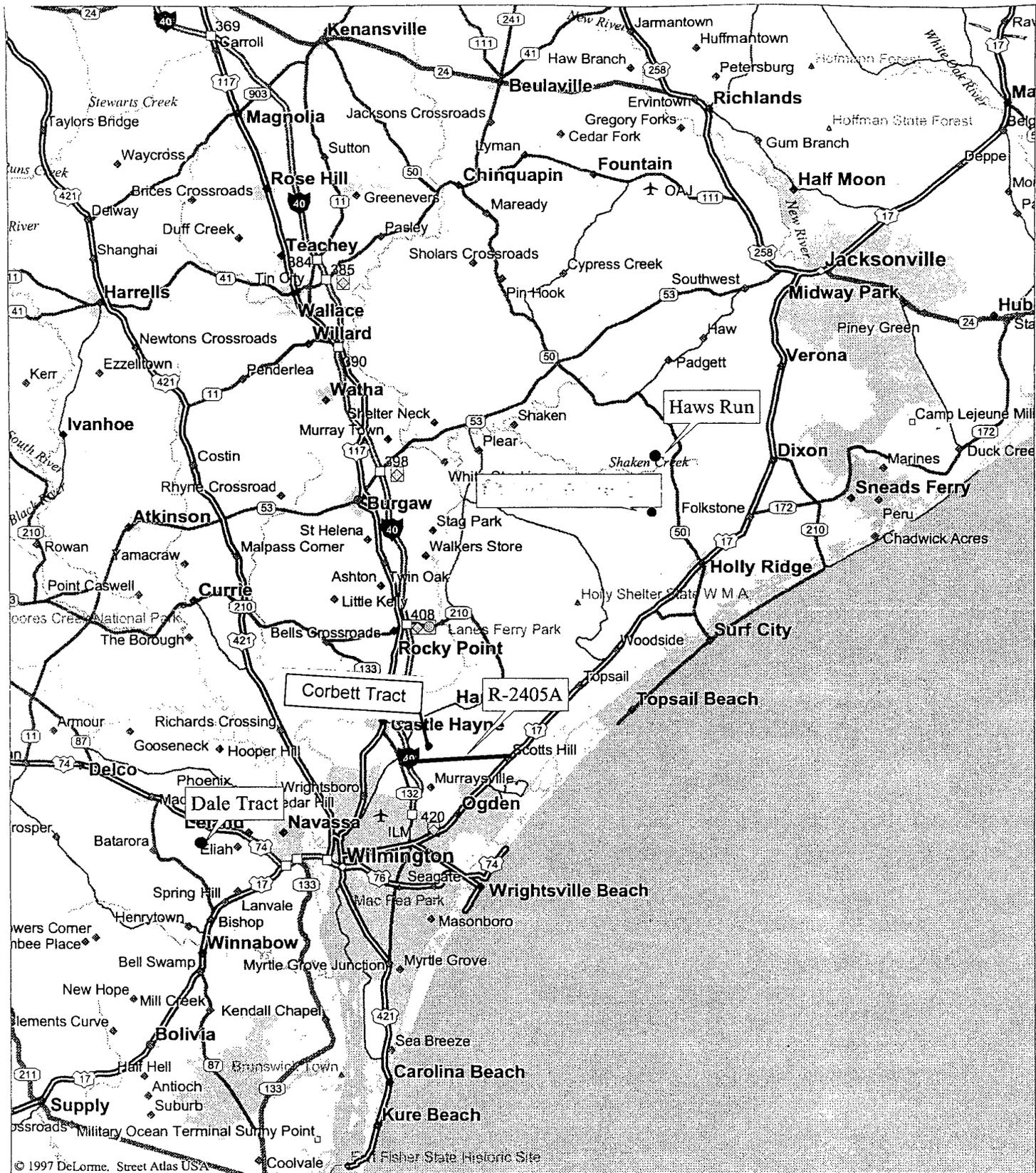


FIGURE 1: I-40 Connector (R-2405A)
Wetland Mitigation Sites