



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: August 14, 2013

Comment Deadline: September 13, 2013

Corps Action ID Number: SAW-2004-30631 TIP Project No. R-2519B

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to impact waters of the U.S. associated with widening approximately 7.5 miles of US Highway 19 E from SR 1186, west of Micaville in Yancey County, to the existing multilane section west of Spruce Pine in Mitchell County, North Carolina. The project would result in permanent impacts to approximately 7,256 linear feet (lf) of stream and 0.15 acre of wetland, and temporary impacts to 1,360 lf of stream and <0.01 acre of surface waters.

Specific plans and location information are described below. There are 114 permit drawings/plan sheets for this project. To review these plans, as well as the mitigation plan and associated drawings, please see the link below or review them in person at the Asheville Regulatory Field Office. This Public Notice and all plans are available on the Wilmington District Web Site at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

**Applicant:**

North Carolina Department of Transportation  
Attn: Mr. Phil Harris  
Project Development and Environmental Analysis Unit  
Natural Environment Section  
1598 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**

The project corridor is 7.5 miles in length and runs along US 19 E from SR 1186, west of Micaville in Yancey County, and ends at the existing multilane section of US 19E, west of Spruce Pine in Mitchell County (Enclosure 1).

Project Length: approximately 7.5 miles  
Nearest Town(s): Micaville in Yancey County and Spruce Pine in Mitchell County  
Nearest Waterway: Little Crabtree Creek, Big Crabtree Creek, Long Branch, Brushy Creek, English Creek, and Ayles Creek, Phipps Creek, the South Toe River, and unnamed tributaries.  
River Basin: French Broad  
Latitude and Longitude: 35.9016 N, -82.1441W

## **Existing Site Conditions**

The project is located in the Blue Ridge physiographic province of western North Carolina. The topography in the project area is generally characterized as rolling hills with steeply sloping, deeply cut drainage ways. Elevations range from 2,600 to 3,000 feet above mean sea level. Surrounding land uses include agricultural, residential, commercial, and forested lands.

There are thirty-two (32) soil mapping units identified within the project area. Only one of these soils, Nikwasi sandy loam, is listed as a hydric soil for Yancey County. No hydric soils are listed for Mitchell County. Of the remaining thirty-one (31) non-hydric soils, eight are known to include hydric soils in depressions.

The project site is located within sub-basin 040306 of the French Broad River Basin Watershed (HUC 06010108). Little Crabtree Creek, Big Crabtree Creek, Long Branch, Brushy Creek, English Creek, and Ayles Creek and their tributaries have the NC Division of Water Quality's (NCDWQ) stream classification of C; Tr. The South Toe River is classified as B;Tr and is designated as an Outstanding Resource Water (ORW). No streams within the project area are designated as North Carolina Natural and Scenic Rivers or as National Wild and Scenic Rivers.

In 2008, NCDOT received authorization to impact waters of the U.S. along 21 miles of US Highway 19/19E under TIP Numbers R-2518A, R-2518B, and R-2519A. This project, TIP No. R-2519B, connects to R-2519A near Micaville in Yancey County.

## **Applicant's Stated Purpose**

According to the applicant, the purpose of the project is to increase traffic capacity, correct roadway deficiencies, and provide system linkage along US 19E.

## **Project Description**

The following description of the work is taken from data provided by the applicant. In order to widen the existing two lane road to a multi-lane facility along the 7.5 mile project corridor, the applicant would place fill material in waters of the U.S. Existing drainage structures and

waterway conveyances would need to be extended, replaced, or relocated. There are nine (9) reinforced concrete box culverts on this project. There are two (2) bridges on this project; one over the South Toe River [occupied critical habitat for the Appalachian elktoe (*Alasmidonta raveneliana*)] and one over Big Crabtree Creek. Six sites would require stream relocation. Plans submitted with the application show the placement of fill material which would permanently impact 7,256 linear feet (lf) of stream and 0.15 acre of wetland, and temporarily impact 1,360 lf of stream and <0.01 acre of surface waters (a pond) along the project corridor. The fill material would primarily consist of culverts, pipes, soil, rip rap, causeways, and bridge piers.

### **Avoidance and Minimization**

The applicant provided the following avoidance and minimization measures which were incorporated as part of the project design. These measures include:

- Junction boxes will be utilized at several sites to dissipate energy and reduce outlet velocities.
- Hazardous spill basins will be located on both banks of the South Toe River crossing to minimize impacts to the river and endangered species.
- Dry detention basins will be employed at three sites to minimize erosive stormwater flows.
- Preformed scour holes will be utilized at three sites to attenuate and disperse stormwater flow.
- Design Standards in Sensitive Watersheds will be implemented throughout the project.
- The new bridges at the South Toe River crossing have been designed to largely span the river except for two bents which would be located at the edge of the water.
- Sills would be used in the outer barrels at the Brushy Creek crossing with baffles in the center barrel.
- Design for the new South Toe River bridges would eliminate deck drains while directing runoff to grassed swales/hazardous spill basins.
- The amount of temporary impacts to streams at the South Toe River crossing has been reduced through redesign from 0.22 acre to 0.15 acre.
- 2,957 lf of mitigation credit is proposed for onsite mitigation/natural stream design.

### **Compensatory Mitigation**

In order to offset unavoidable functional losses to the aquatic environment, the applicant proposes to perform onsite mitigation and provide payment into the North Carolina Ecosystem Enhancement Program (NCEEP). NCDOT proposes to generate 2,957 lf of onsite stream mitigation and purchase 3,788 lf of cold stream mitigation units and 0.15 acre of riparian wetland mitigation units in the French Broad River Basin (HUC 06010108) from the NCEEP.

### **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 will not affect EFH or associated fisheries managed by

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

## **Cultural Resources**

Because the project does not utilize federal funds, the Corps is the lead federal agency with respect to compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966. Pursuant to Section 106 of the NHPA, 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, the latest published version of the National Register of Historic Places (NRHP), and consulted with the North Carolina State Historic Preservation Office (NCSHPO).

Historic Architecture - the Corps determined that the project would have no effect on the Micaville Historic District and no adverse effect on the Huskins House, provided that NCDOT creates a grassy slope in front of the house that is easily maintainable by the property owner; any permit that may be issued for this project would include this as a special condition. The NC SHPO concurred with the no effect determination on April 19, 2005, and the no adverse effect determination on June 28, 2005.

Archaeological Sites – the Corps determined that the project would have an adverse effect on archaeological sites 31YC31, 31YC183, and 31ML80; these properties have been determined eligible for listing on the NRHP. A Memorandum of Agreement titled “Memorandum of Agreement Between the Department of the Army, Corps of Engineers and the State Historic Preservation Officer for US 19E Improvements to a Multilane Facility between Micaville and Spruce Pine Yancy (*sic*) and Mitchell Counties, North Carolina Transportation Improvement Project R-2519B” was signed by the Corps, the Eastern Band of Cherokee Indians, NC SHPO, and NCDOT in June 2012, and was then filed with the Advisory Council on Historic Preservation.

## **Endangered Species**

Because the project does not utilize federal funds, the Corps is the lead federal agency with respect to compliance with Section 7 of the Endangered Species Act (ESA) of 1973.

The South Toe River in the project corridor is federally designated and occupied critical habitat for the Appalachian elktoe mussel (*Alasmidonta raveneliana*).

The Corps initiated consultation with the U.S. Fish and Wildlife Service (USFWS) for TIP Numbers R-2518A, R-2518B, R-2519A, and R-2519B in 2007. No permanent impacts to the South Toe River were proposed by NCDOT because they believed that the bridges could be constructed to span the river. The USFWS issued a biological opinion (BO) on March 14, 2008, and an amendment to the BO on January 9, 2009. Currently, construction on the R-2518A, R-2518B, and R-2519A projects has either been completed or is underway.

During planning of the current project, R-2519B, NCDOT determined that spanning the South Toe River completely is not possible. Due to the new information concerning permanent impacts to the South Toe River from two (2) bridge piers (31.8 ft<sup>2</sup>), the Corps reinitiated consultation with the USFWS on March 29, 2013. The USFWS issued an Amendment to the BO on August 1, 2013. As noted in this amended BO, the document updates and clarifies the activities associated with constructing the new bridges over the South Toe River (only) and reassesses the impact on the Appalachian elktoe and its designated critical habitat. Additionally, the USFWS noted that the project, as proposed, is not likely to jeopardize the continued existence of the Appalachian elktoe or adversely modify its designated critical habitat.

### **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 Quality (NCDWQ):** The Corps will generally not make a final permit decision until the NCDWQ issues, denies, or waives State Certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice combined with appropriate application fee at the North Carolina Division of Water Quality Central Office in Raleigh constitutes initial receipt of an application for a 401 Water Quality Certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act Certification may be reviewed at the NCDWQ Central Office, Transportation Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so, in writing, by September 13, 2013 to:

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

Or,

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

### **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

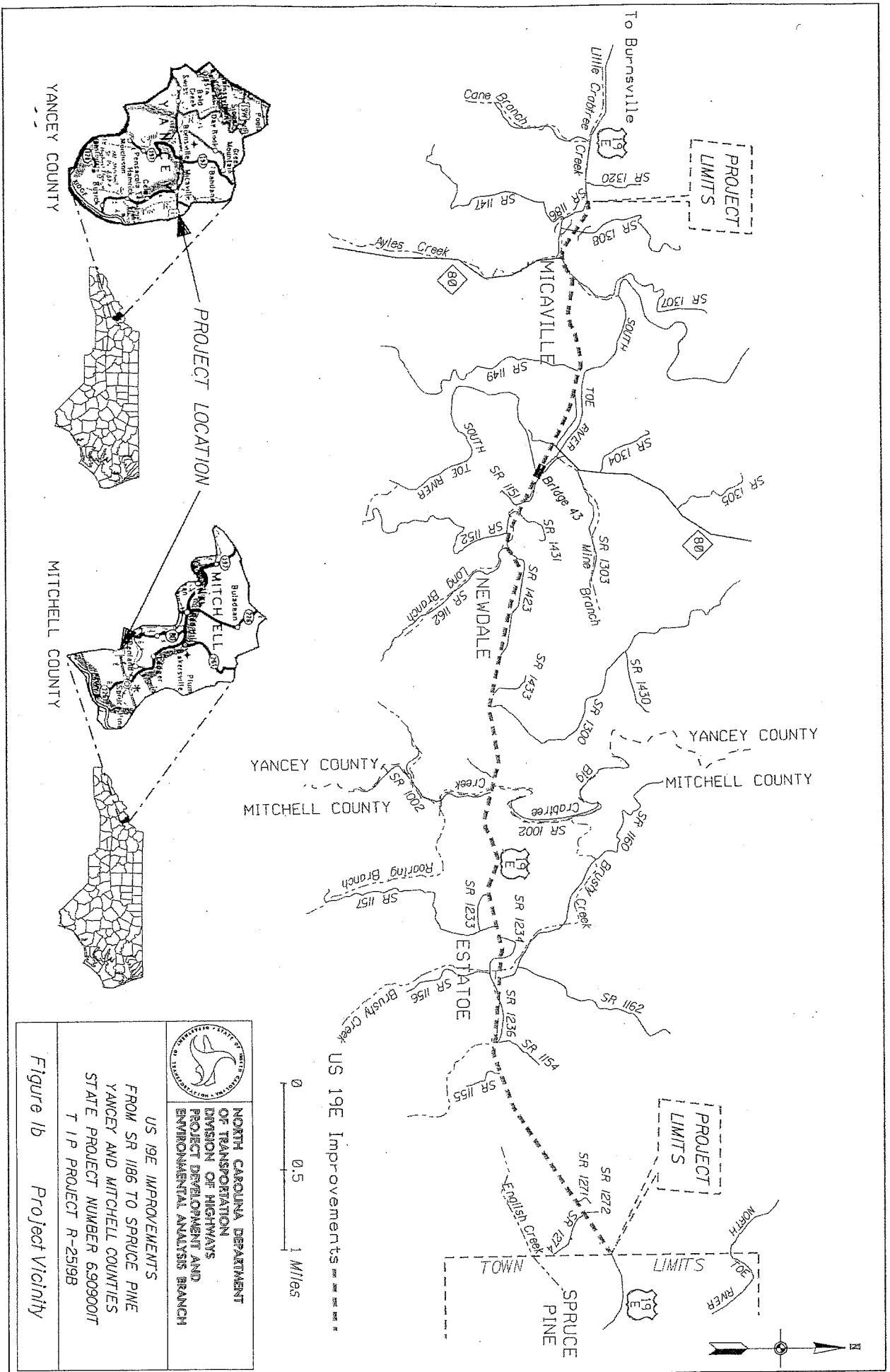
values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, 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, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, September 13, 2013. Comments should be submitted to Lori Beckwith, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006, at (828) 271-7980, ext. 223.



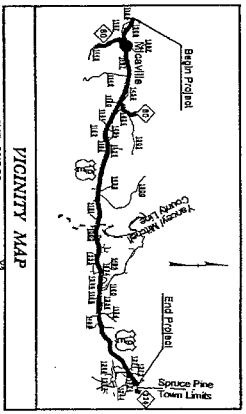
Enclosure 1

\*\*\*\*\*SYSTEM\*\*\*\*\*  
 \*\*\*\*\*DGN\*\*\*\*\*  
 \*\*\*\*\*USERNAME\*\*\*\*\*

01/08/09

**CONTRACT:**

**TIP PROJECT: R-2519B**



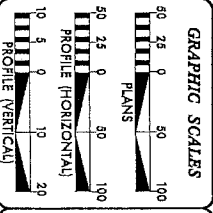
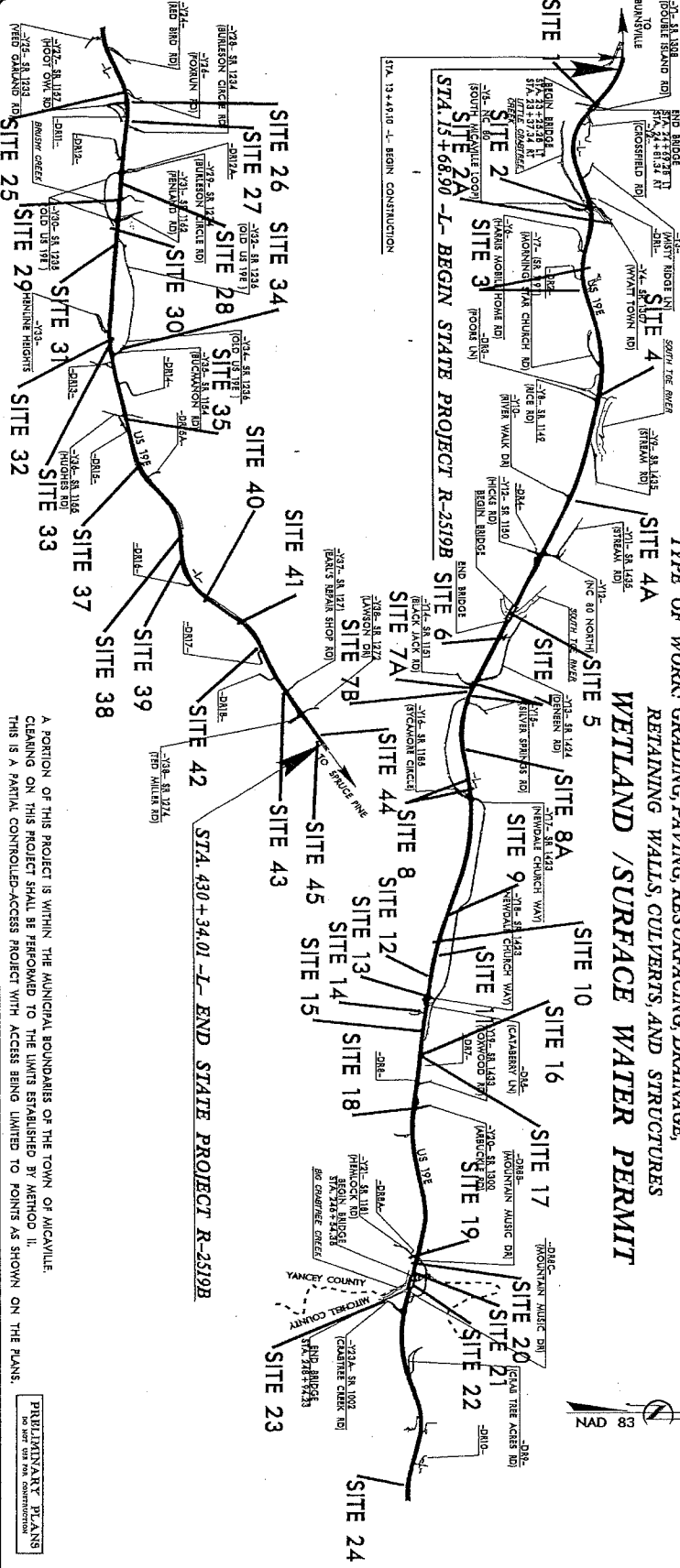
See Sheet 1-A For Index of Sheets  
 See Sheet 1-B For Conventional Symbols

STATE OF NORTH CAROLINA  
 DIVISION OF HIGHWAYS  
**YANCEY/MITCHELL COUNTIES**

LOCATION: US 192 FROM SR 186 (OLD US 19) IN

YANCEY COUNTY TO MULTI-LANE SECTION WEST  
 OF SPRUCE PINE IN MITCHELL COUNTY

TYPE OF WORK: GRADING, PAVING, RESURFACING, DRAINAGE,  
 RETAINING WALLS, CULVERTS, AND STRUCTURES  
**WETLAND / SURFACE WATER PERMIT**



**DESIGN DATA**

ADT 2014 =	13,277
ADT 2024 =	19,181
DHY =	11 %
D =	60 %
T =	7 %
V =	60 MPH
* (T+3% + DUAL 4%)	
FUNC. CLASS. = ARTERIAL	
SIDEWALK TYP.	

**PROJECT LENGTH**

LENGTH ROADWAY TIP PROJECT R-2519B	= 7.724 MI
LENGTH STRUCTURE TIP PROJECT R-2519B	= 0.129 MI
TOTAL LENGTH TIP PROJECT R-2519B	= 7.853 MI

**DIVISION OF HIGHWAYS**

Prepared in the office of:

1668 Birch Ridge Dr., Raleigh, NC, 27610	
RIGHT OF WAY DATE:	JANUARY 27, 2012
LETTING DATE:	FEBRUARY 18, 2014
PROJECT ENGINEER:	THAD F. DUNCAN, PE

**INDIVIDUALS ENGINEER**

ROADWAY DESIGN ENGINEER	MA
PROJECT ENGINEER	MA



Enclosure 2