



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: December 20, 2013
Comment Deadline: January 21, 2014
Corps Action ID Number: SAW-2011-00796

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation, Division of Highways (NCDOT) seeking Department of the Army authorization to impact waters of the United States, associated with the proposed construction of the East End Connector from NC 147 (Durham Freeway/Buck Dean Expressway) to north of NC 98 (Holloway Street) in Durham, Durham County, North Carolina, Federal Aid Project No. NHF-76-1(2), TIP No. U-0071.

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/PublicNotices.aspx>.

Applicant: North Carolina Department of Transportation (NCDOT)
Division of Highways
Attn: Mr. James Mason
Project Development and Environmental Analysis
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 for the East End Connector is located on the east side of Durham County and extends from US 147 between Ellis Road and Briggs Avenue, to NC 98 at US 70, in Durham County, North Carolina. See the attached project vicinity map.

Project Length: 4.0 miles Nearest Town: Durham
Nearest Waterways: Little Lick Creek and unnamed tributaries, and unnamed tributaries
of Northeast Creek River Basin: Neuse River and Cape Fear River
Latitude and Longitude: 35.976 N, -78.8544 W

Existing Site Conditions

The project lies within the Piedmont Physiographic Province of North Carolina. The piedmont consists of generally rolling, well-rounded hills and ridges with a few hundred feet of elevation difference between the hills and valleys. The project corridor is located in the eastern portion of Durham County. Surrounding land uses are predominantly single family residential, commercial, institutional and industrial, with some agricultural, multi-family residential and forested lands.

The majority of the project area is located within the Neuse River Basin [Hydrologic Unit Code (HUC) 03020201], with the western portion of the project along NC 147, and the northern portion north of US 70 Business and the grade-separated railroad crossing, in the Cape Fear River Basin [Hydrologic Unit Code (HUC) 03030002]. Jurisdictional features with proposed impacts include Little Lick Creek, 33 unnamed tributaries to Little Lick and Northeast Creeks, two ponds, five adjacent wetlands, and five isolated wetlands. There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply II (WS-II) waters within 1.0 mile of the project.

Applicant's Stated Purpose

As stated by the applicant, the purpose of this proposed project is to improve capacity on both NC 147 and US 70 and improve connectivity between these high speed routes, which provide direct access to Interstate 40 (I-40) to the south and Interstate 85 (I-85) to the north.

Project Description

The following description of the work is taken from data provided by the applicant. The project will link NC 147 and US 70 and will be a controlled access facility. Proposed interchanges include freeway-to-freeway junctions between the East End Connector and NC 147 adjacent to where NC 147 crosses over SR 1171 (Ellis Road) and between the East End Connector and US 70 near the existing US 70/East End Avenue at-grade intersection. An interchange is also proposed along the proposed facility at Carr Road near US 70 Business, and

the existing interchange between US 70 and NC 98 will be reconfigured. The proposed project will also upgrade US 70 to a freeway from NC 98 to SR 1815 (Pleasant Drive). The project will be comprised of three continuous lanes in each direction, plus auxiliary lanes as needed, with a 26-foot wide median, 12-foot inside shoulders, and 14-foot outside shoulders. A portion of the project will be on new location. In addition to work directly associated with the Connector highway, additional work is also proposed on several side roads along US 70 and NC 98.

Plans submitted with the application for this project show total jurisdictional stream impacts within the Neuse River Basin (HUC 03020101) are 5,447 linear feet of permanent stream impacts, which includes bank stabilization, and 568 linear feet of temporary stream impacts. Of those impacts, a total of 419 linear feet of permanent stream impacts, which includes bank stabilization, and 15 linear feet of temporary stream impacts are to an isolated stream, which is not subject to section 404 of the Clean Water Act. There will be 0.97 acre of surface water impacts to two jurisdictional ponds in the Neuse basin.

Total jurisdictional stream impacts within the Cape Fear River Basin (HUC 03030002) include 501 linear feet of permanent stream impacts, which includes bank stabilization, and 68 linear feet of temporary stream impacts.

There will be a total of 0.46 acres of permanent wetland impacts and 0.01 acres of temporary wetland impacts within the Neuse River. A total of 0.38 acres of the permanent wetland impacts are to riparian wetlands, which includes 0.19 acres of permanent impacts to isolated wetlands, not subject to Section 404. The remaining 0.08 acres of permanent impacts are to non-riparian wetlands, all of which are isolated wetlands, not subject to Section 404. There are no wetland or pond impacts in the Cape Fear Basin.

Avoidance and Minimization

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

- NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters will be enforced.
- Design Standards in Sensitive Watersheds will be employed on portions of the project within the Neuse River Basin.
- Alignment shifts and interchange re-design to avoid stream impacts.
- Elimination of a side road access to avoid stream, wetland and pond impacts.
- Jurisdictional impacts were further minimized by adding guardrail, which allows fill slope limits to be reduced at stream and wetland crossings.
- Where possible, open roadway shoulders with roadway ditches and rip rap pads at pipe outlets were employed.
- Where possible, open, usually vegetated, ditches were used instead of stormwater pipes.

- Sixteen grassed swales will be constructed along the project to convey and treat stormwater and reduce stormwater velocities.
- Seventeen pre-formed scour holes (PSH) will be constructed along the project at pipe outlets and will function as stormwater energy dissipators, for stormwater catchment, treatment, and discharge.
- Installation of one level spreader and two special trapezoidal grassed swales.

Compensatory Mitigation

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

Neuse River Basin:

NCDOT will provide payment to the North Carolina Ecosystem Enhancement Program (NCEEP) for 2,848 warm stream mitigation units within the Neuse River Basin (Cataloging Unit 03020201), to mitigate for permanent loss impacts to 1,424 linear feet of streams with more than minimal function.

NCDOT will provide payment to the NCEEP for 0.38 riparian wetland mitigation units within the Neuse River Basin (Cataloging Unit 03020201) for permanent loss impacts to 0.19 acre of riparian wetlands.

Cape Fear Basin:

NCDOT will provide payment to the North Carolina Ecosystem Enhancement Program (NCEEP) for 880 warm stream mitigation units within the Cape Fear River Basin (Cataloging Unit 03030002), to mitigate for permanent loss impacts to 440 linear feet of streams with more than minimal function.

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 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.

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.

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 January 21, 2014 to:

NCDWR Central Office
Attention: Ms. Amy Chapman, Transportation Permitting Unit
(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 of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, January 21, 2014. Comments should be submitted to Eric Alsmeyer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884, extension 23. Detailed project plans and impact drawings are also available for review at the Raleigh Regulatory Field Office.