



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: March 5, 2014
Comment Deadline: March 20, 2014
Corps Action ID Number: SAW-2006-40559

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation seeking Department of the Army authorization to permanently impact 9.13 acres of jurisdictional wetlands and 82 linear feet of jurisdictional waters, associated with construction of a 3.33 mile long two lane connector from US 64 to the intersection of NC 32 and NC 94 in Washington 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
Mr. Richard W. Hancock
1598 Mail Service Center
Raleigh, North Carolina 27699

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 proposed TIP project R-3620 involves construction of a connector road from U.S. Highway 64 and N.C. Highway 32 and 94 in Washington County, North Carolina. The project is located within a 14.33 acre study corridor between the interchange of US Highway 64 and NCSR 1139 (Beasley Road) and the intersection of NC Highway 32 and NC Highway 94 near Roper.

and NC 32. The new US 64 provides a high-speed corridor serving Washington County and other areas of northeastern North Carolina. NC 32 currently provides a means of north-south movement throughout the county. However, there is no direct connection between the new US 64 and NC 32, leading to increased travel times via local roads for travelers wishing to travel from US 64 to the Albemarle Sound and Edenton. The location of the new US 64 creates the need for new and improved connections with the existing roadway system. The proposed NC 32 connector will provide a more efficient connection between US 64 and NC 32 than currently exists.

The project study corridor is located in the Chesapeake-Pamlico Lowlands and Tidal Marshes ecoregion of the Coastal Plain physiographic province of North Carolina. Topography in the project study area is generally characterized as nearly level to flat. Elevations within the project study area range from a topographic low of 0 ft above mean sea level (MSL) to a topographic high of approximately 15 ft above MSL.

The project study corridor is dominated by forested and agriculture lands with scattered residential land uses. The majority of the project study region is rural; however, much of the landscape has been altered or disturbed through fire suppression, conversion to pine plantations, agriculture, and limited residential development. Seven terrestrial communities were identified within the project study area: Pine Woodland, Mesic Mixed Hardwood Forest, Pine/Mixed Hardwood Forest, Cypress-Gum Swamp, Successional Land, Maintained/Disturbed Land, and Agricultural Land. Stands of loblolly pine (*Pinus taeda*) are prevalent in interstream areas. Many pine stands are silvicultural plantings managed for timber or pulpwood production while others represent natural pine woodland communities or represent seral stages resulting from old-field succession or from timber management. Mesic mixed hardwood forest is found within the project study corridor along stream channels and slopes bordering intermittent tributaries. Cypress-Gum Swamp is found within the floodplains of the larger creeks. Cypress-gum communities generally experience more prolonged flooding than bottomland hardwood communities. Successional areas within this community designation include fallow fields and cut-over forest land that have one to ten year-old natural and planted vegetation. This community type is differentiated from other forest communities by the dominance of herbaceous or shrub strata rather than tree stratum. All wetlands within the boundaries of this project have been disturbed and altered to some extent. Four wetland types were identified: palustrine forested, palustrine scrub-shrub, palustrine emergent, and palustrine unconsolidated bottom. All areas within the project study drain towards Deep Creek or to unnamed tributaries to Chapel Swamp and the Albemarle Sound. All these tributaries end up draining into the Albemarle Sound. The general soils associations within the project study area include the Augusta-Altavista- Wahee and Cape Fear-Portsmouth-Roanoke associations. There are no designated Anadromous Fish Spawning Areas within the project study area.

Applicant's Stated Purpose

The purpose of the proposed project is to improve connectivity in the study area. The location of the new US 64 created the need for improved connectivity within the study

area to include connectivity between NC 32 and the new US 64 bypass. The purpose and need for this project was agreed upon by federal, state, and local representatives in July 2003.

Project Description

NCDOT proposes to construct a 3.33 mile long two lane connector from US 64 to the intersection of NC 32 and NC 94 in Washington County, North Carolina. The project would result in permanent impacts to 9.13 acres of jurisdictional wetlands and 82 linear feet of jurisdictional waters. See attached project plans.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in all of its designs. Many of these strategies have been incorporated into BMP documents that have been reviewed and approved by the resource agencies and which will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. Individual avoidance and minimization items are as follows:

- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters.
- The project was designed to avoid or minimize disturbance to aquatic life movements.
- NCDOT and its contractors will not excavate, fill, or perform land clearing activities within Waters of the U.S. or any areas under the jurisdiction of the USACE, except as authorized by the USACE. To ensure that all borrow and waste activities occur on high ground, except as authorized by permit, the NCDOT shall require its contractors to identify all areas to be used to borrow material, or to dispose of dredged, fill or waste material. Documentation of the location and characteristics of all borrow and disposal sites associated with the project will be available to the USACE on request.
- Grass Swale treatments have been incorporated in areas where flat slopes can be maintained.
- Proposed culverts will be buried 1 ft. to provide for fish passage.
- Cross pipes in jurisdictional streams will be buried 1ft. for all pipes.
- All wetlands will receive diffused flow.
- Special Sediment Control Fence will be used where applicable.
- The use of hand clearing rather than mechanized clearing where possible.
- Bank stabilization at outlets of culverts will not impact the stream bed..

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The proposed construction of R-3620 will

impact 1.81 acres of riparian wetlands and 7.32 acres of non-riparian wetlands that will require mitigation. In addition, the unavoidable impacts to 82 linear feet of jurisdictional stream will also require mitigation. The applicant will obtain credits from the Ecosystem Enhancement Program to compensate for these losses.

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, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat. In their February 25, 2010 letter to NCDOT, the U.S. Fish and Wildlife Service agreed that the proposed project may affect, but is not likely to adversely affect the red wolf (*Canis rufus*). Additionally, they stated that the requirements of Section 7(a)(2) of the ESA have been satisfied.
- 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, 401 and Buffer 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 March 18, 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

North Carolina Division of Coastal Management (NCDWM):

- 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 NCDWM, and the NCDWM 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 NCDWM.
- 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, March 20, 2014. Comments should be submitted to Tracey L. Wheeler, Washington Regulatory Field Office, 2407 West Fifth Street , Washington, North Carolina 27889, at (910) 251-4627.