



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: November 20, 2014
Comment Deadline: December 19, 2014
Corps Action ID Number: SAW-2014-01802

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT), in consultation with the Federal Highway Administration (FHWA), seeking Department of the Army (DA) individual permit authorization to impact approximately 4.17 acres of DA jurisdictional wetlands and 108 linear feet of surface waters associated with the replacement of Bridge Nos. 85, 141, 151 and Culvert C70 on US 301 over Swift Creek and Culvert C161 on US 301 over Lane Swamp in Nash County, North Carolina. (NCDOT TIP B-5124; Federal Aid Project- BRSTP-0301(25), WBS 42270.1.1.)

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: Mr. Richard W. Hancock, P.E., Manager
Project Development and Environmental Analysis Unit
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh North Carolina 27699-1548**

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

Directions to Site: The project site location is located on US 301; approximately 0.5 miles north of Battleboro, Nash County, North Carolina. (Figure 1.)

Project Area (acres): 1.3 miles
Nearest Town: Battleboro
Nearest Waterway: Swift Creek
River Basin: Tar River
Latitude and Longitude: Approximate center at 36.078573 N, -77.748548 W.

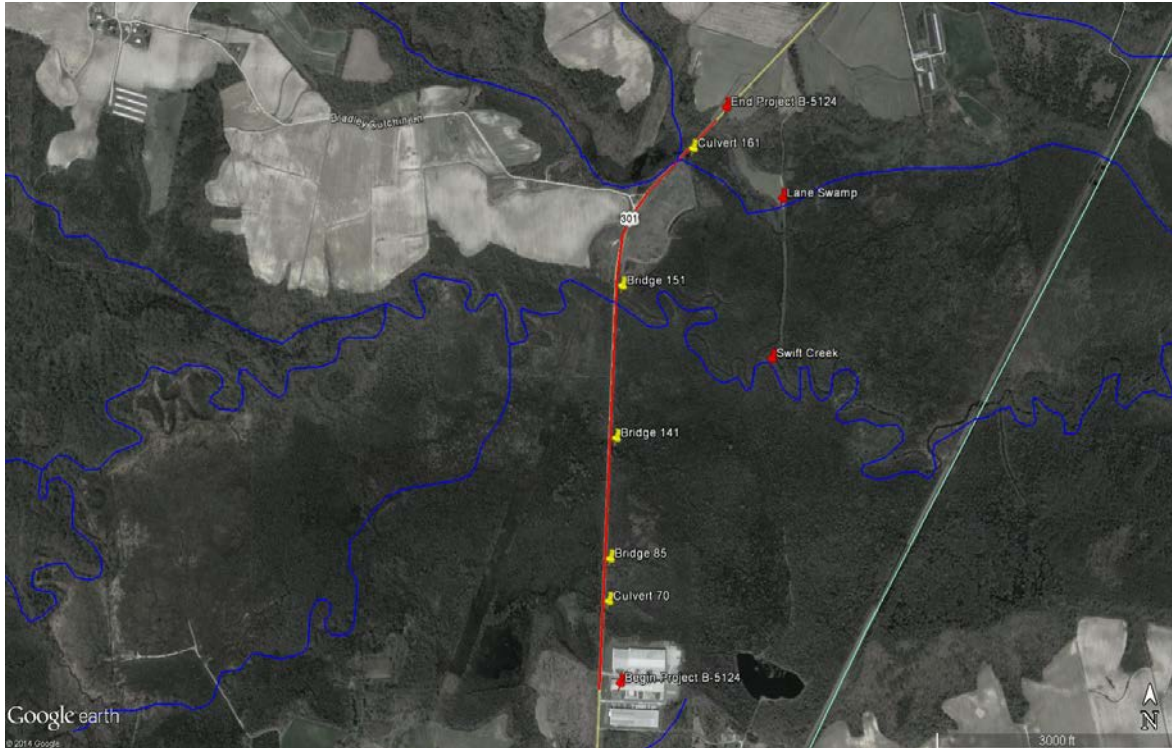


Figure 1

Existing Site Conditions

The study area lies in the [Southeastern Floodplains and Low Terraces](#) physiographic region of North Carolina. Topography in the project vicinity is comprised of broad flat level floodplains along streams. Elevations in study area range from 90 to 100 feet above sea level. Land use in the project vicinity consists primarily of agriculture, with sparse residential development along roadways and forestland along stream corridors and floodplains.

Water resources in the study area are part of the Tar-Pamlico River Basin (United States Geological Survey [USGS] Hydrologic Unit 03020101). Swift Creek and Lane Swamp were identified in the study area as direct tributaries of the Tar River.

There are no Outstanding Resource Waters (ORW), designated High Quality Waters (HQW), or water supply watersheds (WS-I or WS-II) within 1.0 mile of the study area. The North Carolina 2006 Final 303(d) list of impaired waters does not include Swift Creek, Lane Swamp or any other waters listed due to sedimentation within 1.0 mile of the study area.

Two terrestrial communities were identified in the study area: Maintained / Disturbed and Coastal Plain Small Stream Swamp (brown water subtype). A brief description of each community type follows.

Maintained / Disturbed: Maintained / Disturbed areas are present only in the northern portion of the study area and along US 301 in places where the vegetation is periodically mowed, such as roadside shoulders, a power line easement and farmland. The vegetation in this community is comprised of low growing grasses and herbs, fescue, and milkweed.

Coastal Plain Small Stream Swamp: The Coastal Plain Small Stream Swamp brown water subtype) community occurs in the majority of the study area within the floodplain of Swift Creek and Lane Swamp. This community experiences seasonal to permanent inundation where overbank flooding occurs from streams in the study area. Bald cypress, tupelo, American sycamore, river birch, sweetgum, and red maple dominate the canopy. The ground and water surface layers are comprised of arrow arum, cattail, rush, and other common emergent vegetation.

A wetland identification and preliminary assessment analysis for the study area was performed and summarized in the 2009 Natural Resources Technical Report (NRTR) and 2012 NRTR Addendum. The wetlands within the study area were delineated based on the 1987 U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual and a preliminary design was prepared to avoid and minimize wetlands to the maximum extent possible. The stream channels within the project study area were identified, evaluated, and classified using the NCDWQ stream identification form and the Cowardin classification system. Water quality information for the streams within the project study area was derived from available sources provided through the NCDENR.

Applicant's Stated Purpose

The purpose for this project is to replace functionally obsolete or structurally deficient bridges and bring US 301 shoulder widths up to current design standards. The proposed improvements are needed to safely accommodate future traffic volumes along this section of US 301.

Project Description

Replace structurally deficient and functionally obsolete bridges 85, 141, and 151; extend culverts 70 and 161 as part of widening substandard shoulder widths to current design standards. All proposed bridge and culvert extension construction will occur on existing

locations and widening for 1.3 miles will occur within the US 301 corridor; utilizing an offsite detour.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: All jurisdictional features were delineated and surveyed within the corridor for B-5124. Using these surveyed features, preliminary designs were adjusted to avoid and/or minimize impacts to jurisdictional areas. 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.
- Proposed culverts will be buried 1 ft. to provide for fish passage.
- All wetlands will receive diffused flow.
- Special Sediment Control Fence will be used where applicable.
- The existing causeway will be utilized to minimize jurisdictional impacts.
- Maintenance of traffic via offsite detour.
- Anadromous fish moratorium February 15 – June 15 for Bridges 141 and 151. The moratorium does not apply to Bridge 85 nor Culverts 70 and 161.
- Bank stabilization at outlets of culverts will not impact the stream bed.
- Considering environmental, hydraulic, and roadway perspectives, 3:1 slopes are proposed within the wetlands.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The proposed impacts to jurisdictional areas within the project limits will require compensatory mitigation. Proposed permanent impacts for B-5124 include fill, excavation, and mechanized clearing in 4.17 acres of riparian riverine wetlands. Proposed permanent impacts to jurisdictional streams are 108

linear feet. Impacts to jurisdictional resources will be mitigated through the in-lieu fee program administered by the North Carolina Ecosystem Enhancement Program (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' 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

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 and NCDOT coordinated with the NC Department of Cultural Resources and it was determined that no historic resources would be affected by the proposed project, and has received written concurrence from SHPO.
- 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 has been 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 federally listed endangered or threatened species or their formally designated critical habitat. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- 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, 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 December 19, 2104 to:

NCDWR Central Office

Attention: Ms. Amy Chapman, Transportation Permitting Unit

(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617

Or,

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

North Carolina Division of Coastal Management (NCDCM):

- 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 NCDCM, and the NCDCM 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 NCDCM.
- 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, December 19, 2014. Comments should be submitted to Mr. Thomas Steffens, Washington Regulatory Field Office, 2407 West Fifth Street , Washington, North Carolina 27889, at (910) 251-4615.