



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: July 14, 2015  
Comment Deadline: August 13, 2015  
Corps Action ID Number: SAW-2009-01703  
NC DOT TIP: B-4490

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NC DOT) seeking Department of the Army authorization to discharge dredged or fill material into waters of the U.S., associated with a bridge replacement project over the CSX Railroad, Norfolk Southern Railroad, and Hillsboro Street in downtown Fayetteville, Cumberland 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, PDEA  
Mr. Richard Hancock, P.E.  
1598 Mail Service Center  
Raleigh, NC 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

Directions to Site: The project site is located at the existing bridge number 116 on NC 24-210 (Rowan Street) over the CSX Railroad, Norfolk Southern Railroad, and Hillsboro Street in downtown Fayetteville, Cumberland County, North Carolina. To access the site from Wilmington, North Carolina follow US Hwy 17 Business/US 421 North/US 76

West towards Leland, then continue onto US Hwy 74 West until NC Highway 87 North to NC 24/NC 87/Bragg Boulevard, turn right onto Bragg Boulevard, then turn left onto Rowan Street.

Project Area (acres): 0.6 mile                      Nearest Town: Fayetteville  
Nearest Waterway: Cross Creek                      River Basin: Cape Fear  
Latitude and Longitude: 35.060270N, -78.887311W

### **Existing Site Conditions**

The information below is taken from NC DOT's Federal Environmental Assessment (EA) dated November 2011, NC 24-210 is a signed, seven-lane roadway, locally known as Grove Street, with curb and gutter east of Ray Avenue, with three through lanes in each direction and a center turn lane. West of Ray Avenue, NC 14-210 tapers down to a four-lane curb and gutter roadway, locally known as Rowan Street and includes two through lanes in each direction. Rowan Street ends at a signalized intersection with Bragg Boulevard. Sidewalks exist on both sides of Rowan Street within the project area. North of Rowan Street, NC 24 is routed along Bragg Boulevard, which is a four-lane undivided with curb and gutter. South of Rowan Street, Bragg Boulevard is designated SR 3828, and consists of a four-lane curb and gutter roadway, with sidewalks on both sides within the project area. The sidewalk along the western side of Bragg Boulevard through the project area, is a part of the Freedom Trail. NC 210 (Murchison Road) within the project area, is a four-lane undivided highway with curb and gutter and sidewalks on both sides.

West Rowan Street is a four lane undivided roadway with curb and gutter in the project area. No sidewalks exist on either side of West Rowan Street between Bragg Boulevard and Murchison Road. Sidewalks exist on the south side of West Rowan Street between Murchison Road and Raleigh Street. The proposed project study area consists of three distinct terrestrial communities: Small basin wetland, mixed hardwood forest, and maintained/disturbed, and are further described below:

- Small Basin Wetland-This community type within the project area (approximately 1% of the study area) is found where water collects draining from steep railroad grades. Dominant canopy and sapling species include hackberry (*Celtis laevigata*), tree-of-heaven (*Ailanthus altissima*), cherry laurel (*Prunus caroliniana*), with Chinese privet (*Ligustrum sinense*) in the shrub layer. The herbaceous and vine layer is sparse, and primarily consists of trumpet creeper (*Campsis radicans*), and poison ivy (*Toxicodendron radicans*).
- Mixed Hardwood Forest- This community type is commonly found in pockets of land not already converted to residential or commercial development and covers approximately 11% of the project study area. Dominant canopy and sapling species include hackberry, winged elm (*Ulmus alata*), pecan (*Carya illinoensis*) sweet gum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), red mulberry (*Morus rubra*),

willow oak (*Quercus phellos*), tree-of-heaven (*Ailanthus altissima*), and loblolly pine (*Pinus taeda*). The primary shrub layer consists of Chinese privet, and cherry laurel (*Prunus caroliniana*). The herbaceous layer is nearly non-existent, but does contain vines including summer grape, climbing hempweed (*Mikania scandens*), saw greenbrier (*Smilax bona nox*), and Virginia creeper (*Parthenocissus quinquefolia*).

- **Maintained/Disturbed-** This community type makes up approximately 89% of the project area and includes habitats that have been either historically or recently altered by human activity. These activities may include disturbances such as parking lots, roadways, residential and commercial developments, and maintained open fields and lawns. Species identified within this community in the project area include numerous ornamental species, fescue, ryegrass, Chinese privet, Eastern baccharis (*Baccharis hailmifolia*), goldenrod (*Solidago sp.*), and kudzu. Common tree species identified include sycamore (*Platanus occidentalis*), bald cypress (*Taxodium distichum*), and mimosa (*Mimosa microphylla*).

Water resources within the project study area are located within the Cape Fear River Basin (USGS Hydrologic Unit 03030004, NC DWQ Subbasin 03-06-15). Two streams are present within the study area, Cross Creek, and an unnamed tributary to Cross Creek. Cross Creek is classified by the North Carolina Division of Water Resources (NC DWR) as Class C from its source to the Cape Fear River. Class C waters are protected for secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, agriculture and other uses suitable for Class C. No High Quality Waters (HQW), Primary Nursery Areas or designated anadromous fish waters are present within one mile of the study area. There is one jurisdictional wetland located within the project study area which will not be impacted as a result of the proposed project.

Cumberland County lies within the coastal plain physiographic region of North Carolina. Elevations within the project study area range from 110 to 140 feet above mean sea level and are generally flat to gently sloping. Soils within the project study area include mapped hydric and non-hydric soils and are detailed in the table below:

**Table 1. Soils within Project Study Area**

<b>ID</b>	<b>Name</b>	<b>Slopes</b>	<b>Hydric</b>
BdD	Blaney-Urban land complex	8-15	Non-hydric
FcB	Faceville-Urban land complex	0-6	Non-hydric
Ru	Roanoke-Urban land complex	N/A	Hydric
Ur	Urban land	N/A	Non-hydric
WgB	Wagram-urban land complex	0-9	Non-hydric
WnB	Wickham-urban land complex	1-6	Hydric*

\*Soils identified as primarily non-hydric, which contain hydric inclusions

## **Applicant's Stated Purpose**

The applicant's purpose is to replace bridge number 116 on NC 24-210 (Rowan Street) and to relocate the existing Rowan Street in support of the Fayetteville Northwest gateway Plan and the proposed North Carolina Veterans Park.

## **Project Description**

The project involves replacing the existing bridge number 116 on NC 24-210 (Rowan Street) to the north of its current location and reconfiguring the intersections of SR 3147 (West Rowan Street) with NC 24/SR 3828 (Bragg Boulevard), and NC 210 (Murchison Road) with SR 3147 (West Rowan Street) at NC 24-210 (Rowan Street) into a single, signalized intersection.

## **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Jurisdictional features were delineated, field verified and surveyed within the corridor of proposed project. The applicant designed the project, utilizing these surveys, to avoid and/or minimize impacts to jurisdictional areas. No wetland impacts are proposed as a result of the project.

Additional avoidance and minimization measures are described below:

- Best Management for Construction and Maintenance Activities will be utilized.
- No staging of construction equipment or storage of construction supplies will occur in wetlands or near surface waters.
- NC DOT and its contractors will not excavate, fill, or perform land clearing activities within waters of the U.S. or any areas under Corps jurisdiction, except as authorized by the Corps. To ensure that all borrow and waste activities occur on high ground, except as authorized by permit, the NC DOT will 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 proposed project will be available to the Corps upon request.
- Proposed culverts will be buried 1 foot to provide for fish passage.
- Special sediment control fence will be used where applicable.
- Bank stabilization at outlets of culverts will not impact the stream bed.
- Backfill for culvert will consist of native material.
- Back fill in culverts will be smoothed flat to allow for easier passage by wildlife.
- The existing culvert near the outlet of the proposed culvert will be removed, resulting in 90-linear feet of day-lighted stream channel.

## **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant proposes to provide compensatory mitigation for the unavoidable permanent impacts to 775 linear ft of stream

channel through payment into the North Carolina Division of Mitigation Services (DMS) in lieu fee program at a 2:1 ratio.

### **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' preliminary determination is that the proposed project's effect on threatened and endangered species or their formally designated critical habitat is may affect, likely to adversely affect. This effect determination is made specifically for the Northern Long-eared bat (NLEB) (*Myotis septentrionalis*). The US Fish and Wildlife Service developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers, and the NC DOT for the northern long-eared bat. The PBO covers the NC DOT program for NC DOT Divisions 1-8, including all NC DOT projects and activities. The programmatic determination for the NC DOT program in these divisions is "May affect, likely to adversely affect." The PBO provides incidental take coverage for the NLEB and ensures compliance with Section 7 of the Endangered Species Act for 5 years for all NC DOT projects with a federal nexus in Divisions 1-8, including the proposed B-4490 project which is located in Division 6 in Cumberland County.
- 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 August 13, 2015 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, August 13, 2015. Comments should be submitted to Ms. Liz Hair, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403, at (910) 251-4049.