



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: October 21, 2024
Comment Deadline: November 21, 2024
Permit Application No. SAW-1995-02242

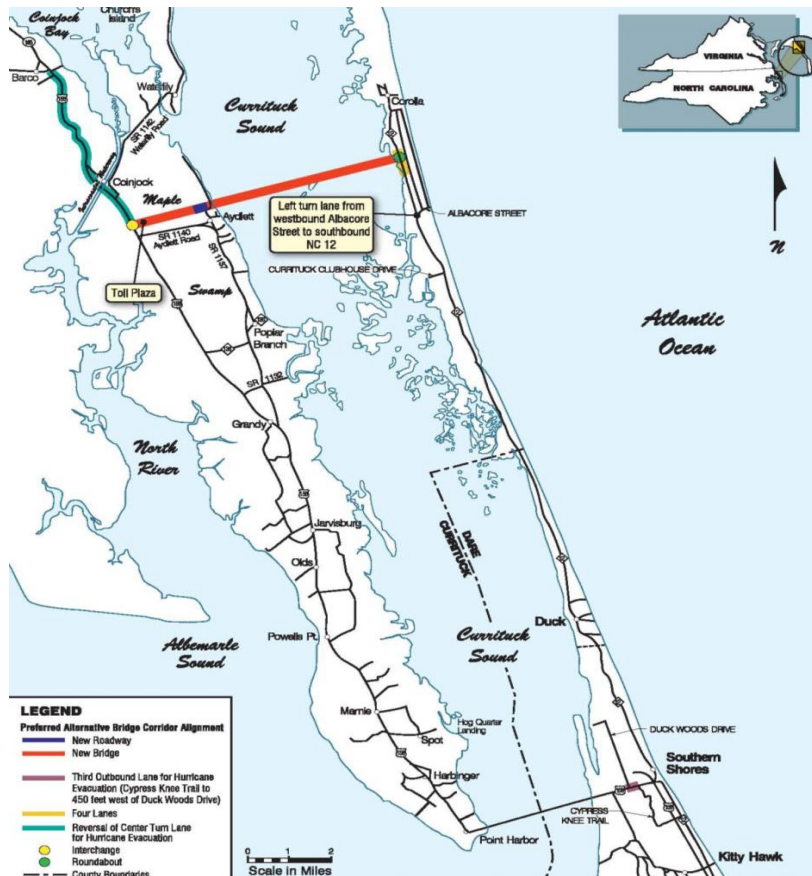
TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403) as described below:

Specific location information is described below. Construction plans are not attached to this Public Notice due to the large number of pages. However, electronic copies of this Public Notice and the construction plans can be found at:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

APPLICANT: Patrick A. Norman
North Carolina Department of Transportation
Turnpike Authority
1578 Mail Service Center
Raleigh, North Carolina 27699

WATERWAY AND LOCATION: The project would affect waters of the United States associated with the Currituck Sound. The project/review area is located on an alignment extending seven miles from US 158 near Coinjock/Aydlett to NC 12 near Corolla in the Barco and Corolla Township; at Latitude 36.369840 and Longitude -75.957770; in Barco, Currituck County, North Carolina.



PROJECT PURPOSE:

Basic: This project has three basic purposes: 1) to improve traffic flow on NC 12 and U.S. 158; 2) to reduce travel time to the Currituck County Outer Banks; and 3) to improve hurricane clearance times.

Overall: The construction of a two-lane, controlled-access, toll road on new location that will improve traffic flow and travel time in the region and extends from US 158 near Coinjock/Aydlett to NC 12 near Corolla.

PROPOSED WORK: This project proposes to construct a controlled-access two-lane toll road on new location that extends from US 158 near Coinjock/Aydlett to NC 12 near Corolla, North Carolina. The total length of the project is approximately 7.0 miles and includes a shorter bridge over Maple Swamp on the Currituck County mainland and the longer, main bridge over Currituck Sound. In addition, the project includes improvements to US 158 and NC 12.

EXISTING CONDITIONS: The project path is oriented in a straight alignment running east from US 158 in Coinjock/Aydlett, to NC 12 in Corolla, North Carolina. The project crosses tributaries of Waters of the U.S. (ditches), surface waters, and wetlands. Jurisdictional features in the western part of the project drain to Great Swamp or Maple

Swamp while features in the eastern part of the project drain to Currituck Sound. There are no Outstanding Resource Waters (ORW), High Quality Waters (HQW), WS-I waters, or WS-II waters within 1 mile upstream or downstream of the project or within the project area. No stream that flows through the project is designated as National Wild and Scenic River or a State Natural and Scenic River.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: NCDOT proposes the following measures and will continue to seek ways to avoid and minimize jurisdictional resource impacts to the maximum extent practicable.

- The extensive wetlands in Maple Swamp will be bridged rather than filled. Wetlands in the alignment of the Maple Swamp bridge will be hand-cleared and the final bridge will be about 10 feet above the surface of the wetland which will allow for free wildlife movement and passage of any flood waters under the bridge infrastructure. The inclusion of a bridge rather than a causeway across Maple Swamp reduced the wetland fill acreage by approximately 36 acres.
- Temporary construction trestles will be used in Currituck Sound for construction of the bridge in order to minimize impacts to SAV beds that exist now or have existed during the past 10 growing seasons in the Sound.
- Construction matting will be utilized whenever possible when crossing wetlands with equipment. This matting will be removed immediately following project completion and the underlying area allowed to naturally revegetate.
- Slopes were reduced to the maximum extent practicable next to wetlands in order to minimize fill associated with these slopes.
- The US 158 interchange was configured to minimize impacts to wetlands to maximum extent practicable.
- Piles will be constructed through the use of pile-driving, with turbidity curtains surrounding the piles during construction. Jetting of piles is not proposed.
- It is not anticipated that the driving of test piles will take place within Maple Swamp.

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

NCDOT proposes to obtain compensatory mitigation credits for the permanent wetland impacts from the NC Division of Mitigation Services.

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:

Historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places), 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 and/or THPO.

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: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Southeast Regional Office Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table #1. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table #1: ESA-listed species and/or critical habitat potentially present in the action area.

Scientific Name	Common Name	Federal Status ¹	Habitat Present	Biological Conclusion ²	
				USFWS Jurisdictional Species	NMFS Jurisdictional Species
				MCB2, MCB4, and Preferred Alternative	MCB2, MCB4, and Preferred Alternative
<i>Myotis septentrionalis</i>	northern long-eared bat	T	Yes	MA-LAA	NA
<i>Canis rufus</i>	red wolf	E-EXPN	Yes	No Effect	NA
<i>Perimyotis subflavus</i>	tricolored bat	PE	Yes	MA-LAA	NA
<i>Trichechus manatus</i>	west Indian manatee	T	Yes	MA-NLAA	NA
<i>Laterallus jamaicensis ssp. jamaicensis</i>	eastern black rail	T	No	No Effect	NA
<i>Charadrius melodus</i>	piping plover	T	No	No Effect	NA
<i>Calidris canutus rufa</i>	red knot	T	No	No Effect	NA
<i>Picoides borealis</i>	red-cockaded woodpecker	E	Yes	No Effect	NA
<i>Alligator mississippiensis</i>	American alligator	T(S/A)	Yes	Not Required	NA
<i>Chelonia mydas</i>	green sea turtle	T	Yes	No Effect	No Effect
<i>Eretmochelys imbricata</i>	hawksbill sea turtle	E	No	No Effect	No Effect

<i>Lepidochelys kempii</i>	Kemp's ridley sea turtle	E	Yes	No Effect	No Effect
<i>Dermochelys coriacea</i>	leatherback sea turtle	E	No	No Effect	No Effect
<i>Caretta caretta</i>	loggerhead sea turtle	T	Yes	No Effect	No Effect
<i>Acipenser brevirostrum</i>	shortnose sturgeon	E	Yes	NA	No Effect
<i>Acipenser oxyrinchus oxyrinchus</i>	Atlantic sturgeon	E	Yes	NA	MA-NLAA
<i>Amaranthus pumilus</i>	seabeach amaranth	T	No	No Effect	NA

Source: USFWS, IPaC date checked on March 10, 2023

¹ T – Threatened

PE – Proposed Endangered

T(S/A) – Threatened because of similarity of appearance to E-

EXPN – Experimental population, Non-essential

² MA-NLAA – May Affect, Not Likely to Adversely Affect

MA-LAA – May Affect, Likely to Adversely Affect

NA-Not applicable; no biological conclusion required

This notice serves as request to U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

The Corps intends to initiate Essential Fish Habitat (EFH) consultation separately from this public notice. A separate EFH consultation package will be sent to the National Marine Fisheries Service (NMFS) by separate letter. The Corps will not make a permit decision until the consultation process is complete.

Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the North Carolina Department of Water Resources.

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 applicant did not provide or satisfy all the elements required for a complete 401 certification request. Therefore, the 401 Certification process has not started. 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 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 at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. 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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to: NCDWR Central Office Attention: Amy Chapman, Transportation Permitting Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617.

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 did not include, 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).

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Wilmington District will receive written comments on the proposed work, as outlined above, until 5pm, November 21, 2024. Comments should be submitted to Kyle Barnes at kyle.w.barnes@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Kyle Barnes, 2407 West 5th Street, Washington, North Carolina 27889. Please refer to the permit application number in your comments.

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 will 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.