



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: December 16, 2024
Comment Deadline: January 6, 2025
Corps Action ID Number: SAW-2007-01386

The Wilmington District, Corps of Engineers (Corps) received an application on November 22, 2024 from North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to modify an existing Clean Water Act (CWA) Section 404 Individual Permit (IP) for TIP No. 3300 Hampstead Bypass Section A, in Pender and New Hanover Counties, North Carolina.

There are two other sections associated with this project. A phased permit was issued in August 2017 for U-4751 Military Cutoff Extension and construction completed. Hampstead Bypass Section B (R-3300B) was permitted in 2021 and construction began in 2022. This modification request provides updates and final impacts/design for the R-3300A section of the project. The revised design does not compromise NCDOT's compliance with the existing permit conditions.

Specific location information is described below. Construction plans are not attached to this Public Notice due to the large number of pages. However, all construction plans can be found at the Wilmington District Web Site along with this Public Notice: <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/PublicNotices.aspx>. If you wish to have a paper copy of this Public Notice and/or the construction plans, please contact the individual identified at the end of this Notice.

Applicant: NC Department of Transportation (NCDOT)
MR. TRACE HOWELL, P.E.
5501 BARBADOS BOULEVARD
CASTLE HAYNE, NC 28429-5647

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)

Location

Location Description: Hampstead Bypass on new location, (R-3300-A is located between the terminus of Military Cutoff Road (T.I.P. No. U-4751) at I-140 and NC-210 at the terminus of R-3300 B in New Hanover and Pender Counties, North Carolina. (Action ID SAW-2007-1386)

Project Area (acres): Approximately 7.05 miles

Nearest Town: Wilmington

Nearest Waterway: Northeast Cape Fear River

River Basin: Cape Fear River

Latitude and Longitude: N 34.3420647 Longitude: W -77.814533

Existing Site Conditions

The proposed project is located in the outer Coastal Plain and crosses portions of northern New Hanover County and southern Pender County, USGS Hydrologic Units (HU) 03030007 and 03020302 of the Cape Fear River Basin. This part of the Cape Fear River basin is the only coastal area in North Carolina that is accessible by interstate highway, making it a popular destination because of its proximity to the Atlantic Ocean, beaches, and estuarine waters.

The southern extent of the study area is characterized primarily by a mix of commercial and residential development; the northern extent includes preserved land, undeveloped forests, open fields, and wetlands. Natural areas preserved for recreation and education uses include the North Carolina Wildlife Resources Commission Holly Shelter Game Land and the North Carolina State University blueberry research station. Open fields are primarily managed agricultural areas used for blueberries, row crops, and tobacco production, or are left fallow.

Jurisdictional waterways within the project area include Island Creek, Mill Creek and/or tributaries to these waterways. The jurisdictional wetlands in the study area include palustrine forested and palustrine scrub-shrub.

Applicant's Stated Purpose

The purpose of the proposed action is to improve the traffic carrying capacity and safety of the US 17 and Market Street corridor in the study area. The stated needs to be addressed by the proposed project include traffic carrying capacity, safety issues, and transportation demand.

The purpose and need for this project was agreed upon by federal, state, and local agency representatives in September 2006.

Project Description

The US 17 Hampstead Bypass (3300-A) would be constructed as a freeway on new location. The 3300-A project would connect to the Military Cutoff Road Extension at the existing US 17 Wilmington Bypass and extend to existing NC-210 at the southern terminus of R-3300-B, currently under construction to the north of Hampstead. Full control of access is proposed for the US 17 Hampstead Bypass. The total length of the 3300-A project is 7.1 miles.

Avoidance and Minimization

All jurisdictional features were delineated, field verified and surveyed within the corridor for R- 3300A. Using these surveyed features, final 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 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.
- 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.
- Offsite and roadway drainage has been separated to the maximum extent practical. Roadway drainage systems were extended so outfalls discharge outside of wetland areas and into uplands, wherever possible.
- Toe protection was added to the toe of fill slopes, in lieu of lateral ditches, in wetland areas to minimize impacts to wetlands, where possible.
- Culverts in jurisdictional streams will be buried to promote fish passage. RCBC's will be backfilled with native material excavated from the stream channel to provide natural substrate. Where multiple barrel culverts are proposed, sills and floodplain benches will be constructed to natural stream dimensions and profiles.
- Perpendicular stream crossings have been used where possible.
- 3:1 side slopes were designed throughout the project within jurisdictional areas with the exception of 4:1 slopes within an interchange (as a driver safety measure).
- Equalizer pipes have been added to wetland crossings to maintain hydraulic connectivity to the maximum extent practicable.
- Other Avoidance and Minimization measures incorporated into this project can be found in the 4A meeting minutes dated July 12, 2017.

Impacts to Jurisdictional Resources

Permanent Impacts: Proposed permanent impacts for R-3300A include fill, excavation, and mechanized clearing in wetlands. This includes impacts to 13.894 acres of riparian wetlands and 19.269 acres of non-riparian wetlands. Proposed permanent impacts to streams are 4,868 linear feet.

Temporary Impacts: Proposed temporary impacts include temporary fill and hand-clearing in wetlands. This includes 0.9230 acres of riparian wetlands and 1.863 acre of non-riparian wetlands. Proposed temporary impacts to surface waters is 460 linear feet.

Utility Impacts: Within R-3300A there will be power, telecommunications, natural gas, sanitary sewer and water relocations. Impacts from underground utilities have been minimized by using bore pits and directional drilling. Beyond impacts already accounted for as part of the road construction and natural gas pipe relocation impacts noted in the application, there are no additional impacts for utility relocation.

Hand Clearing: The hand clearing totals due to the project construction are 1.163 acres.

Compensatory Mitigation

The proposed construction of R-3300A will impact 13.894 acres of riparian and 19.269 acres of non-riparian wetlands thereby requiring compensatory mitigation in the Cape Fear Basin, HUC 03030007. NCDOT is proposing to offset both riparian and non-riparian wetland impacts with the projected credits to be generated by the Beane Mitigation Site which was planned and constructed to address the mitigation needs for the overall R-3300 project. Since there are minimal riparian credits associated with the Beane Mitigation site, NCDOT proposes to provide 27.79 of non-riparian wetland enhancement credits along with 13.894 of non-riparian restoration wetland credits to offset the 13.894 acres of riparian wetland impacts associated with R-3300A project.

With the absence of available riparian wetland credits in existing DMS & Mitigation Bank sites within Cape Fear HUC 03030007, the NCDOT believes that this wetland mitigation plan is the best proposal NCDOT can offer for impacts associated with this project. NCDOT also believes that this proposal provides the best overall ecological benefit by mitigating for all impacts with the closest mitigation site to the project that has available credits.

Mitigable permanent stream impacts (loss of waters) for the R-3300A total 2844 linear feet (4,840 linear feet of permanent impact minus 1,108 linear feet of bank stabilization and 916 linear feet of channel realignment). The existing channel is incised and heavily manipulated by human activity. The new relocated channel will match the existing dimension and profile of the existing channel but also include floodplain benches and streambank reforestation. The 2844 linear feet of permanent stream impacts (loss) will

be offset by compensatory mitigation provided by the North Carolina Division of Mitigation Services (NCDMS).

Essential Fish Habitat (EFH)

The Corps' determination is that the proposed project would not effect any 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.

During the cultural resource review process for U-4750 and 3300 A-B, it was determined that the project would have an adverse effect on the Mount Ararat AME Church and archaeological site (31PD344**), both of which have been deemed eligible for the National Register of Historic Places. As a result, NCDOT, USACE, and NC State Historic Preservation Officer (SHPO) signed a Memorandum of Agreement (MOA) stipulating steps to mitigate the adverse effects. All mitigation has been completed for the entire project.

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 has made the following initial determination for federally listed endangered or threatened species or their formally designated critical habitat:

- It was determined that the project will have No Effect on 10 of the 14 federally protected species for the project area (October 30, 2024).
- Northern Long-eared Bat: The US Fish and Wildlife Service has issued a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (USACE), and NCDOT for the northern long-eared bat (NLEB) (*Myotis septentrionalis*) in eastern North Carolina. The PBO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. Although this programmatic covers Divisions 1-8, The USFWS only considers NLEBs to be known or potentially found in 30 counties within Divisions 1-8. The programmatic determination for NLEB for the NCDOT program is May Affect, Likely to Adversely Affect. The PBO will ensure compliance with Section 7 of the Endangered Species Act for ten years (effective

through December 31, 2030) for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Pender and New Hanover Counties, where R-3300A is located.

- Tricolored Bat: The US Fish and Wildlife Service has issued a programmatic conference opinion (PCO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (USACE), and NCDOT for the tricolored bat (TCB) (*Perimyotis subflavus*) in eastern North Carolina. The PCO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. The programmatic determination for TCB for the NCDOT program is May Affect, Likely to Adversely Affect. Once the TCB is officially listed, the PCO will become the programmatic biological opinion (PBO) by formal request from FHWA and USACE. The PBO will ensure compliance with Section 7 of the Endangered Species Act for approximately five years (effective through December 31, 2028) for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Pender and New Hanover Counties, where R-3300A is located.
- Red-Cockaded Woodpecker: A Biological Opinion for the entire U-4751 and R-3300 project area was completed by USFWS in 2016 with a conclusion that the project is not likely to jeopardize the continued existence of the RCW but there may be an incidental take of one RCW group due to foraging habitat removal. The BO states that the “potential effects to RCWs only occur within an approximately 2.5-mile portion of the project at its northeastern terminus in Pender County.” The incidental take and potential effects are only within R-3300B and not considered an issue for the R-3300A project. However, the BO applies to the entire project area and outlines a biological conclusion of May Affect, Likely to Adversely Affect.
- Rough-leaved loosestrife: As part of the 2016 RCW Biological Opinion, USFWS stated that rough-leaved loosestrife would be considered May Affect, Not Likely to Adversely Affect. Additionally, no individuals were found during updated plant surveys during the June 2024 survey window.

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 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 180

days of the date of this public notice. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, Transportation Permitting Branch, 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: Ms. Amy Chapman, Transportation Permitting Branch
(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 applicant has requested approval for the proposed project under a Coastal Area Management Act (CAMA) from the N. C. Division of Coastal Management for R-3300-A. Pursuant to 33 CFR 325.2 (b)(2) the Corps is, by this notice, forwarding this information to the North Carolina Division of Coastal Management (NCDCM) and requesting its concurrence or objection. Generally, the Corps will not issue a DA permit until the NCDCM notifies the Corps that it concurs with the applicant's consistency certification or issues the CAMA Major Development Permit.

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 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, January 6, 2025. Comments should be submitted to Mr. Thomas Steffens, Washington Regulatory Field Office, 2407 West 5th Street, Washington, North Carolina, 27889 or to thomas.a.steffens@usace.army.mil.