



NCDOT Replacement of Herbert C. Bonner Bridge and NC12 Long Term Management Plan, Dare County, NC (Regulatory)

- **A Supplemental Draft Environmental Impact Statement (SDEIS), a Supplement to the SDEIS, an Environmental Assessment, and a Record of Decision (ROD) has been prepared jointly by the Federal Highway Administration (FHWA) and the North Carolina Department of Transportation (NCDOT).**
- **The U. S. Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, and the National Park Service are cooperating agencies in the SDEIS.**

CONGRESSIONAL DISTRICT: NC-3

DATE: 23 February 2015

1. PURPOSE:

To provide the status of the proposal by the North Carolina Department of Transportation (NCDOT) to replace the Bonner Bridge over Oregon Inlet (Phase I) and to seek long term solutions for the NC 12 transportation corridor on Pea Island (Phase II), in conjunction with the replacement of Bonner Bridge, Dare County, North Carolina (Federal Aid Project No. BRS-2358 (15), State Project No. 8.1051205 T.I.P. No. B- 2500). Action ID 199303077

2. BACKGROUND:

- a. A draft Environmental Impact Statement (DEIS) was finalized for the Bonner Bridge replacement in November 1993. Consequently, a preferred alternative was selected and a preliminary final EIS was prepared. The final EIS was never approved or finalized.
- b. Changing conditions on NC-12 south of Oregon Inlet resulted in decisions to prepare a supplemental DEIS and a supplement to the SDEIS that described additional alternatives for the proposed project. The current supplement to the SDEIS, approved on February 14, 2007, describes two replacement bridge corridors: a Pamlico Sound bridge and a parallel bridge corridor.
- c. On August 27, 2007, the interagency Merger Review Board reached concurrence on the Parallel Bridge with the "Phased Approach/Rodanthe Bridge" as the Least Environmentally Damaging Practicable Alternative (LEDPA). On September 17, 2008, NCDOT and FHWA finalized and distributed the Final EIS to the public.
- d. NCDOT and FHWA proposed a change on May 21, 2009, in the designation of the

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LEDPA/Preferred Alternative based on consideration and evaluation given to comments received on the FEIS and the Section 4(f) evaluations. The Merger Team concurred that the project would move forward based on the original 2007 Review Board agreement.

e. In February 2010, NCDOT and FHWA supplemented the existing environmental documents with an environmental assessment to identify and assess changes that have occurred since the approval of the FEIS/final Section 4(f) evaluation dated September 17, 2008. The environmental assessment was approved on May 7, 2010, which added a new detailed study alternative as the Preferred Alternative. This alternative was called the Parallel Bridge Corridor within the NC 12 Transportation Management Plan, and delayed decisions along the NC 12 Highway corridor due to the inherent uncertainty in predicting future conditions within the dynamic coastal island environment.

f. On July 1, 2011, a lawsuit was filed against NCDOT and FHWA by the Southern Environmental Law Center, acting on behalf of the Defenders of Wildlife and the National Wildlife Refuge Association, asserting NCDOT and FHWA had not conducted their NEPA analysis in accordance with applicable regulations. The judge ruled in favor of NCDOT and FHWA on September 16, 2013. The plaintiffs filed an appeal on October 1, 2013.

g. On August 27, 2011, Hurricane Irene created the need to quickly study and move forward with Phase II of the project as portions of NC 12 were destroyed and the urgency for long term solutions became immediate. On October 10, 2011, NCDOT completed temporary repairs at the two breach sites and reopened NC 12 to traffic.

h. An NCDOT/Merger Team meeting was held on October 18, 2011, to discuss and identify issues, constraints and concerns with potential alternatives identified for long term solutions along the NC 12 corridor in the most urgent locations created by the hurricane. Public workshops were conducted December 5-6, 2011 and January 5, 2012 to solicit public input on Phase II. Several possible options/alternatives were presented which were previously studied in the FEIS.

i. A Merger Team meeting was held on December 15, 2011, to attempt to reach concurrence on alternatives to carry forward for study. NCDOT proposed to move forward with one alternative at the Pea Island breach area (bridge within the existing NC 12 easement) (now identified as Phase IIA) and two alternatives at the Rodanthe site (bridge on new location and bridge within existing NC 12 easement) (now identified as Phase II B). Concurrence was not reached during the meeting. A third alternative which NCDOT may wish to pursue would be a bridging option that would include both breach sites.

j. On June 26, 2012, NCDOT submitted a permit application for Phase I of the project. A Corps public notice was issued on July 16, 2012. A Corps permit was issued for Phase I on August 14, 2013. NCDOT submitted a request to modify the permit on December 9, 2013.

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k. The North Carolina Division of Coastal Management issued a CAMA Major permit for Phase I of the project on September 19, 2012. The Southern Environmental Law Center, acting on behalf of the Defenders of Wildlife and the National Wildlife Refuge Association filed a Third Party Appeal request with the Coastal Resources Commission, and this request was denied. The denial decision was appealed in Wake County Superior Court and the NCDCM permit was suspended on August 12, 2013.

l. In 2012, Hurricane Sandy and nor'easter events caused considerable damage to NC 12 causing NC 12 to be closed. A temporary 4-wheel drive sand access road was created west of the damaged highway and the emergency ferry access from Stumpy Point to Rodanthe became operational. On December 19, 2012, construction was finalized and the damaged section of NC 12 was reopened.

m. On October 29, 2012, Concurrence Points 2/2A and 3 were agreed upon for Phase II A and CP2/2A for Phase II B.

n. On February 13, 2013, an application was submitted to the Corps for Phase II A of the project. This application was withdrawn for revision. A modified application was submitted on August 27, 2013 and a Nationwide Permit 14 was issued on October 24, 2013. Construction has been suspended pending resolution of existing lawsuits.

o. Due to damage caused by recent storm events, the challenge of naturally restoring the coastal shoreline and the vulnerability of NC 12 in its current location, NCDOT applied for a permit to nourish the beach in the most vulnerable location. The proposed nourishment would serve as a temporary 3 to 4 year solution in the Phase II B location until a more permanent solution can be implemented. This permit was issued on October 15, 2013. The project began in late July 2014 and was completed in September 2014.

3. **CURRENT STATUS:**

a. On August 6, 2014, the Federal Court of Appeals ruled that NCDOT complied with NEPA regulations. The Division of Water Quality permit has been issued. The NCDCM permit is suspended until the NC Superior Court makes a decision. The US Coast Guard permit is pending; however the Coast Guard permit cannot be issued until the lawsuits are resolved. The Corps permit for Phase I has been modified to incorporate NCDOT's requested changes.

b. NCDOT is currently in negotiations with the Southern Environmental Law Center to discuss replacement of Bonner Bridge with a parallel bridge and to develop long term solutions to the challenges along NC Highway 12.