



**US Army Corps
of Engineers®**
Wilmington District

NCDOT /NCTA Monroe Bypass Union and Mecklenburg Counties, NC (Regulatory)

- **Proposed Monroe bypass highway permit issued April 15, 2011**
- **4th Circuit Court ruled NEPA requirements were not followed**
- **Corps has suspended permit while NCDOT develops a new course of action**
- **NCDOT issued supplemental EIS and FHWA issued a new ROD.**
- **SELC filed new litigation against FHWA and State of North Carolina**
- **A new permit application was submitted to the Corps and the application is currently under review.**



CONGRESSIONAL DISTRICT: NC-8, NC-9

DATE: 23 February 2015

1. PURPOSE:

To provide information concerning the Monroe Bypass located in Mecklenburg and Union Counties, North Carolina Turnpike Authority/North Carolina Department of Transportation (NCDOT) STIP No. R-2559 and R-3329, State Project No. 8.T690401 (Corps Action ID SAW-2009-0876). The bypass is proposed as a new location roadway from US 74 at I-485 in eastern Mecklenburg County to US 74 near the town of Marshville in Union County.

2. BACKGROUND:

a. The Corps reached a final decision to issue the permit for the Monroe Bypass to the North Carolina Turnpike Authority (NCTA) on April 15, 2011. The Southern Environmental Law Center (SELC) filed suit against the Federal Highway Administration (FHWA) and State of North Carolina alleging that information provided in the Final Environmental Impact

PROJECT INFORMATION – NCDOT/NCTA Monroe Bypass, Union and Mecklenburg Counties, NC (Regulatory) - Continued

Statement (FEIS) was inadequate and incomplete, thereby invalidating FHWA's National Environmental Policy Act (NEPA) documentation and the NC Division of Water Quality's (NCDWQ) Section 401 Water Quality Certification issued for the project. A final decision on the federal complaint was rendered on October 25, 2011, by Chief United States District Court Judge James Dever, which denied the plaintiff's motion for summary judgment and the court ruled in favor of NCDOT and NCTA by finding that their analysis complied with NEPA.

b. The SELC immediately appealed this decision to the 4th Circuit Court of Appeals, which on May 3, 2012, vacated and remanded the lower court ruling by finding that NCDOT and FHWA did violate NEPA by failing to disclose critical assumptions underlying their decision to build the road and instead provided the public with incorrect information.

c. By letter dated May 21, 2012, at the request of NCDOT, the Corps suspended the 404 authorization for the Monroe Bypass. NCDWQ withdrew the 401 Certification for the Monroe Bypass on June 8, 2012.

d. By letter dated April 17, 2013, the Corps revoked NCDOT's 404 permit authorization. The Corps decision to revoke the permit was based upon the indeterminant amount of time that would likely pass before NCDOT could re-evaluate and revise their NEPA documentation.

e. On November 18, 2013, NCDOT submitted a Draft Supplemental Final Environmental Impact Statement (DSEIS).

f. By letter dated January 7, 2014, the Corps responded that we have no further comments on the recently submitted DSEIS.

g. On May 15, 2014, NCDOT submitted a combined DSEIS and the FHWA's Record of Decision (ROD).

h. On June 23, 2014, the SELC again filed suit against the FHWA and State of North Carolina alleging that the NCDOT used pre-determined decision making, mislead the public, and otherwise indicated that information provided in the Supplemental Final Environmental Impact Statements (FEIS) was inadequate and incomplete, thereby invalidating FHWA's National Environmental Policy Act (NEPA) documentation and the NC Division of Water Quality's (NCDWQ) Section 401 Water Quality Certification issued for the project. SELC additionally alleged that FHWA inappropriately used the combined FSFEIS and ROD.

i. On October 2, 2014, NCDOT submitted a revised permit application for our review for Section 404 authorization.

PROJECT INFORMATION – NCDOT/NCTA Monroe Bypass, Union and Mecklenburg Counties, NC (Regulatory) - Continued

j. On October 24, 2014 the project went out on public notice and the public comment period ended November 24, 2014.

3. **CURRENT STATUS:**

Currently the permit application is under review to determine if the proposed project is compliant with Section 404 of the Clean Water Act. Once the review is complete, a permit decision will be issued.