



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: November 9, 2022
Comment Deadline: December 9, 2022
Corps Action ID Number: SAW-2020-00940

The Wilmington District, Corps of Engineers (Corps) received an application on October 28, 2022, from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge dredged or fill material, associated with the proposal to elevate vertical grade and widen existing I-95 to an eight-lane facility for approximately 7.95 miles from I-74 (Exit 13) to south of US 301/Fayetteville Road (Exit 22) in Robeson County, North Carolina. In addition, NCDOT also proposes to make interchange and roadway improvements at SR 1536 (Carthage Road). NCDOT has identified this project as STIP I-6064 and I-5879, respectively.

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:

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

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: North Carolina Department of Transportation
Attn: Michael Turchy
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

Location Description: I-95 beginning just north of I-74 (Exit 13) and ending just south of US 301/Fayetteville Road (Exit 22) and the interchange at Carthage Road (Exit 19), in Robeson County, NC.

Project Area (acres): N/A Nearest Town: Lumberton, NC
Nearest Waterway: Lumber River River Basin: Lumber River Basin
Latitude and Longitude: 34.622744 N, -79.052668 W

Existing Site Conditions

The proposed project is along a 7.95-mile portion of the existing Interstate 95 corridor, to include the Carthage Road interchange (Exit 19).

The project study area falls entirely within Robeson County which is in the Lumber River Basin and lies within Hydrologic Unit Code (HUC) 03040203 (Lumber Subbasin). The project crosses Back Swamp, Jacob Branch, Fivemile Branch, Lumber River, and Meadow Branch, as well as several unnamed tributaries to waters of the US, and multiple wetlands. Based on field reviews of the delineation of Waters of the US (WOUS), including wetlands, the Corps issued a Preliminary Jurisdictional Determination (PJD). In addition, on May 26 and 28, 2022, the North Carolina Division of Water Resources (NCDWR) conducted an On-Site Determination for Applicability to the Mitigation Rules (15A NCAC 2H .0506[h]).

Streams within the project footprint with surface water classifications include Back Swamp, Jacob Branch, Fivemile Branch, Lumber River, and Meadow Branch. Unnamed tributaries to waters listed above were also identified within the project corridor.

The Lumber River, upstream (west) of I-95, is designated as High-Quality Waters (HQW); however, within the project footprint and downstream of the project there are no waters classified as HQW. No Water Supplies (WS-I: undeveloped watersheds or WS-II: predominately undeveloped watersheds), nor Outstanding Resource Waters (ORW) occur within 1.0 mile of the project area. Sections of the Lumber River that are upstream (west) of a City of Lumberton raw water supply intake (located approximately 0.5-mile upstream of I-95) are classified as Water Supply Waters (WS-IV). Back Swamp is also classified as WS-IV. The Lumber River is designated as both a North Carolina Natural or Scenic River and a National Wild and Scenic River. No streams within the project footprint are listed on the 2022 303(d) list of impaired waters.

Applicant's Stated Purpose

The purposes of improving this portion of I-95 are to help relieve congestion, improve mobility, and enhance the resiliency of this corridor to storm events, such that it can continue to serve as a primary East Coast route through the project design year of 2040. Improvements will be required to accommodate projected future traffic volumes

and ensure the highway operates at an acceptable level of traffic service, particularly during the peak hour. Traffic volumes along the I-95 corridor are expected to increase approximately 50 percent by 2040, creating conditions in which operations degrade and average speeds are below the posted speed limit. The proposed additional through lanes will increase the traffic-carrying capacity of the roadway, improve the flow of traffic, and reduce daily traffic delays resulting from expected traffic volume growth. The project purpose also includes modernizing interchanges and elevating vulnerable sections of the interstate to enhance resiliency against the future rainstorm events.

Project Description

The Federal Highway Administration (FHWA) is the lead federal agency for this proposal. The NCDOT is proposing to widen an approximate 7.95-mile portion of existing Interstate 95 to an eight-lane median-divided facility on existing location through Robeson County. This design-build project includes widening and pavement rehabilitation beginning just north of I-74 (Exit 13) and ending just south of US 301 (Exit 22).

Improvements to I-95 will also increase the resiliency of the highway against future rainstorm events. The highway would be elevated in strategic locations and major water conveyance structures will be upgraded to provide greater protection for I-95 during and following storms as the Lumber River drains the primary watersheds. Portions of this stretch of I-95 were closed for several days due to flooding during hurricanes Matthew and Florence, emphasizing the need to improve the interstate to be more resilient against future storm events. Along with reduced mobility, periods of inoperability impede emergency services, interstate commerce, and erodes military preparedness.

The existing bridge at (Bridge No. 148) at Carthage Road was constructed in 1955 and is functionally obsolete, structurally deficient, and under height. Improvements are needed to meet current standards and remove direct access road connections to I-95 exit/entrance ramps. The on- and offramps would be realigned to meet current standards and SR 1590 (Capuano Street) and SR 1586 (Lackey Street) would be realigned to sever direct connections to the ramps.

This project proposes to permanently impact a total of 1,017 linear feet of perennial warm water streams, 0.3 acres of jurisdictional open water, and 4.31 acres of riparian wetlands.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

NCDOT is committed to incorporating all reasonable and practicable design features to avoid and minimize jurisdictional impacts, and to provide full compensatory mitigation of all remaining, unavoidable jurisdictional impacts. Avoidance measures were

implemented to the extent possible during the planning and design phases, and minimization measures were incorporated into the project design.

All jurisdictional features were delineated, field-verified, and surveyed within the study area. Proposed widening of I-95 towards the median in areas where possible has aided in reducing the project footprint and overall impact to jurisdictional resources. The designs were developed in more detail and adjusted to avoid and minimize impacts to jurisdictional areas. Project designs were reviewed during development stages by an interagency review team. Input from parties concerned have helped develop appropriate and practicable steps to avoid and minimize impacts to sensitive areas.

NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in all of its designs. Many of these strategies have been incorporated into BMP documents that have been reviewed and approved by the resource agencies that will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. General, and some site-specific, avoidance and minimization measures are as follows:

- 1) NCDOT's Best Management Practices (BMPs) for Construction and Maintenance Activities shall be incorporated to the maximum extent practicable.
- 2) Impacts to wetlands, streams, and open waters were avoided and/or minimized by adjusting proposed alignments and slopes.
- 3) Extensive use of retaining walls was incorporated in place of earthen slopes in multiple locations.
- 4) North Roberts Avenue Ramp D was changed from an angular exit to a parallel exit to reduce the overall footprint of the ramp minimizing impacts to the Lumber River.
- 5) A "T" turnaround was used in lieu of a cul-de-sac at the end of Hackett Street to minimize impacts to wetlands immediately adjacent to the Lumber River.
- 6) 3:1 fill slopes have been used to minimize impacts in wetlands.
- 7) Fill slopes in wetlands utilized toe protection at the bottom of fill slope to stabilize area to minimize erosion.
- 8) Stormwater design velocities entering jurisdictional wetlands have been mitigated to be non-erosive (less than 2 fps).
- 9) Outfalls into wetlands were reestablished to their original elevation utilizing flat longitudinal slopes to minimize the extents into wetlands.

10) Stormwater was designed to avoid direct discharge into jurisdictional features to the maximum extent practicable.

11) Where needed, outfall cleanouts were stopped outside of the wetlands when possible, and rip rap dissipater pads are provided to diffuse flow into the wetlands.

12) Rip rap stabilization on banks of jurisdictional streams will be implemented to prevent erosion.

13) Top-down construction is proposed for construction and demolition of the Lumber River bridge, reducing the need for temporary construction impacts, and eliminating the need for a temporary causeway and trestle that would impede recreational paddlers and boaters.

14) Sheet pile walls are incorporated at the Lumber River crossing to avoid roadway impacts to the “oxbow” of the river northeast of the bridge. The wall is designed for full scour, eliminating the need for rip rap and allowing for buffer plantings to enhance the river’s Wild and Scenic viewshed.

15) Utility relocations have been designed to minimize impacts to jurisdictional features. New underground utilities required to cross jurisdictional features will be bored under to avoid impacts.

16) Open shoulder sections were maximized to promote sheet flow from the roadway.

17) Utilized “*Culvert Avoidance and Minimization Design Guidance*” for proposed box culverts, as much as practicable.

Compensatory Mitigation

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

This project proposes to permanently impact a total of 1,017 linear feet of perennial warm water streams (926 linear feet of which will be subject to Corps mitigation and 846 linear feet of which is subject to DWR mitigation) and 0.3 acres of jurisdictional open waters. The project will also permanently impact a total 4.31 acres of wetlands, all of which are riparian wetlands. The unavoidable impacts to Waters of the U.S. will be offset by compensatory mitigation provided by the North Carolina Department of Environmental Quality (NCDEQ) Division of Mitigation Services (DMS).

Essential Fish Habitat

The Corps' 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

FHWA is the lead federal agency for this proposal. However, 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, 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. Specifically, these two historic properties, Jennings Mill and the Tanglewood Historic District, have commitments for tree protection (Jennings Mill) and the construction of a noise wall with no tree removal and no visual intrusions (Tanglewood Historic District). These commitments support the no adverse effect determination. The Corps subsequently requests concurrence from the SHPO (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

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 may affect federally listed endangered or threatened species or their formally designated critical habitat. Specifically, the Wood stork (*Mycteria americana*) has a determination of **May Affect, Likely to Adversely Affect**.

In addition, The US Fish and Wildlife Service has revised the previous programmatic biological opinion (PBO) in conjunction with FHWA, the Corps, and NCDOT for the northern long-eared bat (NLEB) (*Myotis septentrionalis*) in eastern North Carolina. NCDOT, FHWA, and the Corps have agreed to two conservation measures which will avoid/minimize mortality of NLEBs. These conservation measures only apply to the 30 current known/potential counties shown on Figure 2 of the PBO at this time. 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 Robeson County, where I-6064/I-5879 is located.

Other species include the Red-cockaded woodpecker (*Picoides borealis*), Bald eagle (*Haliaeetus leucocephalus*), and Michaux's sumac (*Rhus michauxii*) having no effect from the proposed project.

The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

Other Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review. FHWA is the lead federal agency for this proposal.

NCDOT states that the project has been coordinated with appropriate state and local officials and the Federal Emergency Management Agency (FEMA) to assure compliance with FEMA, state, and local floodway regulations.

The project will cross the Lumber River which is federally designated as a Wild and Scenic River (Public Page 12 Law 90-542, as amended), and is also part of the North Carolina Natural and Scenic River System. To ensure compliance with Section 7(a) of the federal Wild and Scenic Rivers Act and North Carolina Natural and Scenic Rivers Act, additional coordination has been ongoing as hydraulic and structural design continued through the development of Roadway Design Plans.

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 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 regarding the application for a 401 Certification should do so, in writing, by November 30, 2022, 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 (NCDWM):

- 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 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, December 9, 2022. Comments should be submitted to Monte Matthews, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 x31. Comments may also be submitted to monte.k.matthews@usace.army.mil