



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: March 8, 2017  
Comment Deadline: April 7, 2017  
Corps Action ID Number: SAW-2002-20667

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge dredged or fill material into waters and wetlands in Hydrologic Unit Code (HUC) 03030002 (Cape Fear River Basin), associated with Transportation Improvement Project (TIP) No. U-3109 (Mebane Bypass) in Alamance County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

**Applicant:** Mr. Philip S. Harris III, P.E., C.P.M.  
Natural Environment Section Head  
North Carolina Department of Transportation  
Division of Highways  
1598 Mail Service Center  
Raleigh, North Carolina 27699-1598

## 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**

Directions to Site: The project area is located along NC Highway 119 (NC 119) from the Interstate 40/85 (I-40/I-85) interchange southwest of downtown Mebane to the existing SR 1962 (3rd Street) Extension. The project area is then proposed on new location, relocating NC 119 to the west and north of downtown Mebane before tying into existing NC 119 just south of SR 1918 (Mrs. White Lane). The project terminates just north of Mrs. White Lane.

Project Area: 326 (acres)/4.8 miles      Nearest Town: Mebane      River Basin: Cape Fear

Nearest Waterway: MoAdams Creek and unnamed tributaries (UTs), Mill Creek and UTs, UT to Mill Creek (Forest Lake), and UTs to Back Creek

Latitude and Longitude:      36.108733°N, -79.286213°W (central point)

## **Existing Site Conditions**

The project corridor is located in the eastern portion of Alamance County along the west side of Mebane, within the Piedmont Physiographic Province of North Carolina. Topography in the project vicinity generally includes rolling hills, bisected by MoAdams Creek and Mill Creek as well as several smaller streams. Elevations in the study area range from 548 to 672 feet above mean sea level. The proposed corridor contains primarily a combination of open, agricultural, and forested land use classifications, with commercial/industrial and single family residential land uses occurring adjacent to the southern portion of the project area. A portion of the project area occurs within the water supply watershed critical area of the Graham-Mebane Reservoir.

Aquatic resources in the project area are all within the Cape Fear River Basin (HUC 03030002) and include MoAdams Creek and 12 UTs, Mill Creek and 4 UTs, UT to Mill Creek (Forest Lake), 5 UTs to Back Creek (Graham-Mebane Reservoir), and 3 impoundments (ponds). There are no designated Outstanding Resource Waters (ORW), Water Supply I (WS-I), designated anadromous fish waters, or trout waters within 1.0 mile of the project. However, several features within 1.0 mile of the project are identified as both High Quality Waters (HQP) and Water Supply II (WS-II) waters; these include Back Creek, UT of Mill Creek (Forest Lake), Mill Creek, and Lake Michael. Further, Back Creek (Graham-Mebane Reservoir) is listed on the 2014 Final 303(d) List of Impaired Waters for North Carolina due to turbidity. The project area includes 12 wetland areas adjacent to the waters listed above. The wetland areas are characterized as Headwater Forest, Non-Tidal Freshwater Marsh, and Floodplain Pool types according to the North Carolina Wetland Assessment Method (NCWAM).

The jurisdictional boundaries of aquatic resources within the original project study area were verified by the Corps, and a Jurisdictional Determination (JD) was approved on July 8, 2003, with subsequent revisions on February 16, 2005, June 16, 2005, and July 14, 2005. Revisions to the jurisdictional resource delineations were made and field-verified by the Corps on January 26, 2010 and December 5, 2012. A final field re-verification of jurisdictional boundary delineations was made by the Corps on October 4, 2016.

### **Applicant's Stated Purpose**

The purpose of the proposed project, as stated in the Final Environmental Impact Statement (FEIS) dated June 11, 2009, is the following:

The primary needs of the proposed action include the following:

- Capacity deficiencies;
- Lack of connectivity within the local community;
- Lack of efficient north-south routes through Mebane due to development patterns.

The primary purposes of the proposed action include the following:

- Reduce traffic congestion in downtown Mebane;
- Improve access to the local area;
- Provide Alamance County a primary north-south route.

### **Background**

#### *Merger Process*

This project additionally has progressed through a collaborative process which includes multiple Resource and other integral Regulatory Agencies known in the State of North Carolina as the Merger Process. This group of agencies reviewed key points in the project development and agreed to milestones relative to their Agency responsibilities. The Merger Team agreed to the following milestones:

- Purpose and Need (December 13, 2000)
- Detailed Study Alternatives (June 13, 2002)
- Bridging Decisions and Alignment Review (August 18, 2005, March 16, 2006)
- Least Environmentally Damaging Practicable Alternative (LEDPA) (Alternative 9; June 19, 2008)
- Avoidance and Minimization (June 19, 2008)
- 30 Percent Hydraulic Design Review (July 23, 2013)
- Permit Drawings Review (May 14, 2015)
- LEDPA re-verification (February 24, 2017)

### *Project Schedule*

The U-3109 project is comprised of two sections. Section A, which is approximately 3.3 miles in length, begins near the I-85/I-40 interchange and ends north of SR 1921/SR 1996 (Mebane Rogers Road/East Stagecoach Road). Section B, approximately 1.5 miles in length, begins north of Mebane Rogers Road/East Stagecoach Road and ends north of Mrs. White Lane.

U-3109 sections A and B were combined for planning and permitting purposes to facilitate the evaluation of a system-wide project with logical termini. Currently, U-3109A and U-3109B are scheduled to let May 16, 2017 and October 19, 2021, respectively. Permit drawings for the proposed U-3109A have been completed, whereas only preliminary estimates based on preliminary slope stakes plus 25 feet have been calculated for U-3109B. The NCDOT would apply for any relevant permit modifications for U-3109B upon completion of final design including additional avoidance and minimization efforts. Construction would not commence on U-3109B until permit modifications are received based on final design.

### **Project Description**

The proposed action involves construction of the Mebane Bypass in Alamance County. NC 119 would be widened to six-lanes from the I-40/I-85 interchange north to the existing 3rd Street Extension. Improvements to a portion of SR 1997 (Corrigidor Road), including realignment to the east of its existing location and connecting it to SR 1973 (Tate Avenue) near the Mebane Wastewater Treatment Plant (WWTP), are also included in the project. In addition, SR 1970 (Roosevelt Street) would tie into the proposed Corrigidor Road realignment just north of the City of Mebane Maintenance Yard. NC 119 would then be constructed on new location as a four-lane, median-divided facility from the existing 3rd Street Extension north until tying into existing NC 119 just south of Mrs. White Lane. The length of the selected alternative for the total project is approximately 4.8 miles.

### *Summary of Impacts:*

Proposed impacts for total U-3109 project include permanent impacts to 6,232 linear feet of stream channel (6,065 linear feet of permanent fill and 167 linear feet of bank stabilization), 0.89 acre of wetlands (0.78 acre of permanent fill, 0.02 acre of excavation, and 0.09 acre of mechanized clearing), and 0.32 acre of open water. The proposed project also involves temporary impacts to 461 linear feet of stream channel. Proposed project impacts are listed per project section in the table below:

Project Section	Permanent Stream Impacts (linear feet)	Temporary Stream Impacts (linear feet)	Permanent Wetland Impacts (acre)	Permanent Open Water Impacts (acre)
U-3109A	4,926 <sup>1</sup>	461	0.38 <sup>2</sup>	0.32
U-3109B	1,306 <sup>3</sup>	--- <sup>3</sup>	0.51 <sup>4</sup>	0
<b>Total</b>	<b>6,232</b>	<b>461</b>	<b>0.89</b>	<b>0.32</b>

<sup>1</sup> Section A permanent stream impacts include 4,759 linear feet of culvert and other fill and 167 linear feet of rip rap bank stabilization.

<sup>2</sup> Section A permanent wetland impacts include 0.78 acre of permanent fill, 0.02 acre of excavation, and 0.09 acre of mechanized clearing.

<sup>3</sup> Section B permanent stream impacts are based on preliminary design only, and bank stabilization and temporary impacts have not been calculated at this time.

<sup>4</sup> Section B permanent wetland impacts are based on preliminary design only, and specific types of wetland impacts are not known at this time.

Activities resulting in permanent fill in streams include culvert installation, channel re-alignment, and stream channelization activities. Bank stabilization activities are a separate type of fill activity as these activities do not typically occur within the channel (thalweg) of the stream, but rather only on the stream banks. Activities resulting in permanent impacts in wetlands include roadway fill, excavation in association with a fill activity, and mechanized clearing without a specified wetland restoration plan. Temporary impacts proposed are those associated with construction access and dewatering activities, as well as stormwater tie-ins where the impact areas would be returned to pre-construction grade and contour following construction.

### Avoidance and Minimization

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

- NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters will be enforced;
- NCDOT's Best Management Practices for Construction and Maintenance Activities will also be employed;
- Due to a portion of the project being within the Graham-Mebane Reservoir watershed critical area, Design Standards in Sensitive Watersheds will be employed;
- During the development of the preliminary engineering designs for each Detailed Study Alternative, including the Preferred Alternative (Alternative 9), efforts were made to avoid and minimize impacts to wetlands and streams wherever practicable. Where stream crossings were unavoidable, they were located, within design constraints, as perpendicular as practicable, in order to minimize the length of stream impacted;

- The alignment skirts between Wetland 3 (WL3), which is near the eastern boundary of the alignment, and Wetland 4 (WL4), which is on the western boundary of the alignment, while avoiding impacts to Craftique Furniture Company;
- Wetlands WA and WC are associated with the extension of Corrigidor Road. The alignment impacts the western edge of WA and WC to avoid impacting the City of Mebane WWTP operations;
- The Mebane Rogers Road tie-in near proposed NC 119 was designed to end before the Stream SU/SA crossing;
- The tie-in from proposed NC 119 to existing NC 119 south of the Mill Creek community was designed to end before the Mill Creek crossing for the Detailed Study Alternatives, including Preferred Alternative 9, in this area;
- In the vicinity of the Fieldstone community, the mainline alignment was shifted slightly outside the corridor limits to reduce impacts to MoAdams Creek, necessitating a slight expansion of the corridor limits in this area;
- Designing the crossing of Mill Creek as a bridge, thereby avoid stream impacts and reducing wildlife mortality at this location;
- A combination of grassed swales, roadway ditches, and structural BMPs were employed to minimize water quality impacts. In most locations, the outlets for the storm drainage systems were placed at least 50 feet from the Jurisdictional Stream. However, due to topography, none of the lateral grass swales located along the embankment fill slope met the recommended minimum length of swale;
- Class B rip rap aprons/pads will be installed at pipe outlets at Stations 80+50 – LT and 97+98 -L- LT;
- A Class I rip rap energy dissipator basin will be installed at a pipe outlet at Station 100+70 -L- LT;
- Pre-formed Scour Holes (PSH) comprised of Class B rip rap will be installed at Stations 130+50 -L- LT and 140+50 -L- LT;
- Hazardous Spill Basins will be installed at the following locations: 161+92 -L- RT; 179+68 -L- RT; 20+90 -Y16RPA- LT; and 32+55 -Y20- LT.

### **Compensatory Mitigation**

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

For U-3109A, 4,926 linear feet of permanent warm water stream impacts are proposed. Of that total, NCDOT does not propose to provide compensatory mitigation for the 167 linear feet of bank stabilization impacts. Of the remaining 4,759 linear feet of permanent stream impacts, NCDOT proposes to provide compensatory mitigation for 3,888 linear feet at a 2:1 ratio and 618 linear feet at a 1:1 ratio. NCDOT does not propose any compensatory mitigation for the remaining 253 linear feet (Sites 1 and 7A) of streams due to low aquatic function of these resources.

Compensatory mitigation for the 0.38 acre of U-3109A wetland impacts is proposed at a 2:1 ratio for 0.33 acre and 1:1 ratio for 0.05 acre. These mitigation proposals are based on a December 5, 2012 field meeting with the Corps. NCDOT proposes to provide the above compensatory mitigation through purchasing stream credits from the NC Division of Mitigation Services (NCDMS) and wetland credits by debiting the NCDOT South Buffalo Creek Mitigation Site.

For U-3109B, 1,306 linear feet of permanent warm water stream impacts and 0.51 acre of riparian, non-riverine wetlands are proposed, although these figures are based on preliminary design. Currently, NCDOT proposes to provide compensatory mitigation for all 1,306 linear feet and 0.51 acres at a 2:1 ratio through purchasing stream and wetland credits from NCDMS. However, NCDOT states that they may pursue other mitigation options such as permittee-responsible debit ledger and/or on-site mitigation once final design is available. For example, the Cates Farm property is currently being reviewed by NCDOT as a potential on-site mitigation site that could offset impacts in Section B. If either/both of these options are pursued in the future, NCDOT may propose to replace all/ a portion of the U-3109B compensatory mitigation in a future permit modification request.

### **Essential Fish Habitat**

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial 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**

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:

- ☐ Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- ☐ No historic properties, nor properties eligible for inclusion in the National Register, are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps subsequently requests concurrence from the SHPO (or THPO).



- ☐ Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☐ 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. The Corps subsequently requests concurrence from the SHPO (or THPO).
- ☒ Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO (or THPO).

**A result of early coordination with the SHPO, a Memorandum of Agreement has been signed by the NCDOT, FHWA, and SHPO stipulating steps to mitigate the adverse effects to known eligible sites for the National Register of Historic Places.**

- ☐ The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

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 would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- ☒ The Corps determines that the proposed project may affect, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.



**As of September 22, 2010, the U.S. Fish and Wildlife Service (USFWS) lists no federally protected species for Alamance County. However, the USFWS has developed a programmatic biological opinion (PBO) in conjunction with FHWA, 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. The programmatic determination for NLEB for the NCDOT program is May Affect, Likely to Adversely Affect. The PBO provides incidental take coverage for NLEB and will ensure compliance with Section 7 of the Endangered Species Act for five years for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Alamance County, where U-3109 is located. This level of incidental take is authorized from the effective date of a final listing determination through April 30, 2020.**

- ☐ The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

#### **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, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 401 and Buffer 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 March 29, 2017 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 (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 will request, upon receipt, 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).

### **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 shall 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. Note that NCDOT held a Public Hearing for the proposed project at the Mebane Arts and Community Center on September 28, 2010.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, April 8, 2017. Comments should be submitted to David E. Bailey, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 2758, at (919) 554-4884 extension 30.