



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: June 1, 2016  
Comment Deadline: June 30, 2016  
Corps Action ID Number: SAW-2001-21125

The Wilmington District, Corps of Engineers (Corps) received an application for a modification to an existing Department of Army (DA) permit from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to permanently discharge fill material into 5,566 linear feet of jurisdictional stream channel and 0.80 acres of adjacent wetlands, and temporarily discharge fill material into 279 linear feet of jurisdictional stream channel. This permit modification is associated with section D of Transportation Improvement Project (TIP) U-2524, the construction of an approximately 1.75 mile section of the Greensboro Western Loop from east of Battleground Avenue (US 220) to SR 2303 (Lawndale Drive) in Greensboro, in Guilford County, North Carolina.

Due to the large number of permit drawing plans associated with this proposal, they are not included with this Public Notice. Specific plans and location information are summarized below and shown on the Wilmington District Web Site at <http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

If you wish to review these plans in person, or to obtain a copy of the plans by mail, please contact David E. Bailey with the U.S. Army Corps of Engineers, Raleigh Regulatory Field Office at (919) 554-4884, extension 30.

**Applicant:** North Carolina Department of Transportation  
Division of Highways  
Mr. Philip S. Harris III, P.E., C.P.M.  
Natural Environment Section Head  
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 U-2524D project area is a corridor located between the eastern terminus of U-2524C, approximately 0.4 mile east of US 220 and 0.2 mile north of Cotswold Avenue, and the western terminus of the Greensboro Eastern Loop (U-2525) section C, approximately 0.5 mile east of Lawndale Drive and 0.2 mile south of Regents Park Lane, in Greensboro, in Guilford County, North Carolina.

Project Area (acres):	~84	Nearest Town:	Greensboro
Nearest Waterway:	Richland Creek	River Basin:	03030002; Cape Fear
Latitude and Longitude:	36.139383°N, -79.841535°W		

## **Existing Site Conditions**

The project lies within the Piedmont Physiographic Province in the Cape Fear River Basin [Hydrologic Unit Code (HUC) 03030002]. The project corridor is located in the northwestern portion of Guilford County, with this section occurring within the City of Greensboro. The proposed corridor contains a combination of single family, multi-family, open, agricultural, forest and recreational land use classifications. Aquatic resources in the U-2524CD project area include a portion of Horsepen Creek, fifteen (15) unnamed tributaries to Horsepen Creek, a portion of Richland Creek, five (5) unnamed tributaries to Richland Creek, and fifteen (15) adjacent wetland areas.

## **Applicant's Stated Purpose**

As stated by the applicant, the primary purposes of the project are to: 1) provide an efficient connection for major thoroughfares such as I-85, I-40, High Point Road, West Market Street, and US 220; 2) improve service for local north-south traffic; and 3) improve access to the Piedmont Triad International Airport and the major employers in the western section of Greensboro from the north and south.

## **Project Description**

The Corps issued the original DA permit on August 1, 2013 for impacts associated with U-2524CD, a 4.8 mile, six-lane divided facility on new location extending from north of SR 2176 (Bryan Boulevard) to SR 2303 (Lawndale Drive) in Greensboro, Guilford County, North Carolina. Section C of this project begins immediately north of SR 2176 (Bryan Boulevard) and terminates immediately east of Battleground Avenue, while section D continues east to its terminus at Lawndale Drive.

Impacts for U-2524CD authorized by the permit, including subsequent permit modifications to section C only dated March 25, 2014, June 6, 2014, June 19, 2015, and October 7, 2015, include the permanent placement of fill material into 7,717 linear feet of

jurisdictional stream channel and 6.16 acres of adjacent riparian wetlands, and the temporary placement of fill material into 518 linear feet of jurisdictional stream channel and 0.63 acre of adjacent riparian wetlands.

Construction on U-2524C began shortly after permit issuance and will continue for the next several months. Special Condition 20 of the DA permit prohibits construction on section D until Corps approval of final design, including minimization of impacts to waters and wetlands to the maximum extent practicable, and a compensatory mitigation plan.

Impacts originally authorized for U-2524D included 4,604 linear feet of permanent stream impacts and 80 linear feet of temporary impacts. However, NCDOT has revised their plans for section D requiring an increase in impact amounts. Therefore, the current permit modification request includes permanent impacts to 5,566 linear feet of stream and 0.80 acres of wetlands, and temporary impacts to 279 linear feet of stream. Permanent impacts proposed are due to roadway fill, culvert installation, and rip rap bank stabilization. Temporary impacts proposed are for construction access and stream dewatering, as well as trenching for sewer line relocations. Further, this project as proposed would functionally isolate a 780 linear feet reach of a stream via culvert structures up and downstream of the reach.

Given that the current proposed impacts to waters of the U.S. include an increase in stream impacts that alone would exceed Nationwide Permit thresholds, the current proposal to construct U-2524D is being placed on Public Notice.

### **Avoidance and Minimization**

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

- Utilization NCDOT's Best Management Practices (BMPs) for the protection of surface waters;
- Use of Design Standards in Sensitive Watersheds throughout the project;
- Minimization of wetland and stream impacts through the proposed construction of 2:1 slopes where practicable;
- Where practical, stormwater runoff throughout the project is being treated by grassed shoulders, grassed medians and/or grassed typical cut ditches;
- Rip-rap outlet protection has been utilized at all outfalls for energy dissipation;
- The portion of this project located within the "Critical Area" of Lake Brandt will include two hazardous spill basins;
- Open trenches will be used to install sewer lines because heavy groundwater would be encountered in areas of the proposed bore pits if installation was done by a trenchless method. This would make the pits unsafe due to the potential for sloughing off and major dewatering procedures would need to be utilized.

## Compensatory Mitigation

For the previously authorized DA permit, the applicant provided compensatory mitigation by providing payment to the North Carolina Ecosystem Enhancement Program, now known as the North Carolina Division of Mitigation Services (NCDMS), for 14,758 Warm Water Stream Mitigation Units and 10.53 Riparian Wetland Mitigation Units within the Cape Fear River Basin (Cataloging Unit 03030002). Stream mitigation was provided at a 2:1 mitigation to impact ratio for permanent stream losses of 2,775 linear feet for U-2524C and 4,604 linear feet for U-2524D. Wetland mitigation was provided for permanent riparian wetland losses at a 2:1 ratio for 4.40 acres and at a 1:1 ratio for 1.73 acres for U-2524C; no wetland impacts were originally proposed for U-2524D. Subsequent permit modifications for U-2524C have resulted in the additional purchase of 37 Warm Water Stream Mitigation Units and 0.04 Riparian Wetland Mitigation Units from NCDMS.

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment for modifications to U-2524D:

Providing payment to NCDMS for impacts to U-2524D including 10,998 Warm Stream Mitigation Units and 0.16 Riparian Wetland Mitigation Units within the Cape Fear River Basin (Cataloging Unit 03030002). Stream mitigation is proposed at a 2:1 ratio for permanent stream losses of 5,304 linear feet and at a 0.5:1 ratio for loss of aquatic function in 780 linear feet of stream reach. Wetland mitigation is proposed at a 2:1 ratio for permanent riparian wetland losses of 0.08 acre. This amount represents an increase in proposed stream credit purchase of 1,790 Warm Water Stream Mitigation Units and 0.16 Riparian Wetland Mitigation Units for the D section versus the original DA permit.

## 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).
- 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 federally listed endangered or threatened species or their formally designated critical habitat. The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

- 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, 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 June 15, 2016 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 (NCCDM):**

- 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 NCCDM, and the NCCDM 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 NCCDM.

- ☒ 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, June 30, 2016. Comments should be submitted to David E. Bailey, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 extension 30.