



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: August 31, 2016
Comment Deadline: September 14, 2016
Corps Action ID Number: SAW-2004-01203

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 4,916 linear feet of jurisdictional stream channel, 1.23 acres of adjacent wetlands, 1.37 acres of jurisdictional open waters and temporarily discharge fill material into 700 linear feet of jurisdictional stream channel. This permit modification is associated with Transportation Improvement Project (TIP) R-0623, the construction of a partial widening of NC 24/27 and southern bypass to the town of Troy. The widening project begins along existing NC 24/27 west of SR 1138 (Dairy Road) and continues east for approximately 1.3 miles, turns south for a 4.5 mile new location section (south of downtown Troy), and then ties back into NC 24/27 for an approximate 0.9 mile widening to just east of the Little River, in Montgomery County, North Carolina.

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 Andrew Williams with the U.S. Army Corps of Engineers, Raleigh Regulatory Field Office at (919) 554-4884, extension 26.

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 proposed project is located along the existing NC 24/27 west of SR 1138 (Dairy Road) and continues east for approximately 1.3 miles, turns south for a 4.5 mile new location section (south of downtown Troy), and then ties back into NC 24/27 for an approximate 0.9 mile widening to just east of the Little River, in Montgomery County, North Carolina.

Project Area (acres): ~240
Nearest Town: Troy
Nearest Waterways: Rocky Creek; Little River
River Basin: 03040104; Yadkin (Upper Pee Dee)
Latitude and Longitude: 35.334610°N, -79.903305°W

Existing Site Conditions

This project lies within the Carolina Slate Belt of the Piedmont Physiographic Province in the Yadkin-Pee Dee River Basin (Hydrologic Unit Code 03040104). Terrestrial upland communities in the project corridor are represented by four major community types: maintained/disturbed, mesic mixed hardwood forest, dry mesic oak hickory forest, and pine plantation. The delineated wetland community types located within the corridor include: headwater forests, wet seeps, and Piedmont bottomland hardwood forests.

Stream channels within the project study area are classified by the NC DWR as Class C waters with the exception of the Unnamed Tributaries (UT) to Rocky Creek, which are classified as Class C and High Quality Waters (HQW). Jurisdictional features within the R-0623 project corridor that will be impacted include two UT's to Rocky Creek, Warner Creek and seven UT's to Warner Creek, three UT's to Turkey Creek, Smithermans Creek and five UT's to Smithermans Creek, Long Branch, Little River, three ponds, 19 riparian wetlands and one non-riparian (isolated) wetland.

Applicant's Stated Purpose

The applicants stated purpose is to provide additional roadway capacity, accommodate projected travel volumes, reduce congestion on main arteries in downtown Troy, and provide better access to NC 24/27.

Project Description

The Corps issued the original DA permit on September 25, 2014 for impacts associated with R-0623, a 6.65 mile, four-lane divided facility, that includes a partial widening and new location construction extending from west of SR 1138 (Dairy Road) and continues

east for approximately 1.3 miles, turns south for a 4.5 mile new location section (south of downtown Troy), and then ties back into NC 24/27 for an approximate 0.9 mile widening to just east of the Little River, in Montgomery County, North Carolina.

Impacts for R-0623 authorized by the permit include the permanent placement of permanent fill material into 4,916 linear feet of jurisdictional stream channel, 1.23 acres of adjacent riparian wetlands, 1.37 acres of open waters (ponds) and the temporary placement of fill material into 700 linear feet of jurisdictional stream channel.

Construction on R-0623 began shortly after permit issuance and will continue for the next several months. Special Condition A requires the applicant to perform all work in strict compliance with the approved plans and that any modification must be approved by the US Army Corps of Engineers (USACE) prior to implementation. Special Condition E requires that the applicant notify the USACE of any deviation in the construction design plans prior to any active construction in jurisdictional waters or wetlands.

The NCDOT has revised their plans R-0623 requiring an increase in impact amounts. Specifically, they are requesting the following:

- An additional 38 feet of permanent stream impacts for bank stabilization at Site 15.
- An additional 270 linear feet of permanent stream impacts and 28 linear feet of temporary stream impacts at new permit site 25 for the proposed Ramp D.
- An additional 66 linear feet of permanent stream impacts for fill, 7 linear feet of temporary stream impacts and 8 linear feet of permanent impacts associated with bank stabilization at new permit site 26 due to the proposed grade raising on Troy-Candor Road to accommodate the new interchange.

Therefore, the current permit modification request includes permanent impacts to 5,298 linear feet of stream, 1.23 acres of wetlands, 1.37 acre of open waters 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.

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 R-0623 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 in most wetland areas;
- All storm drainage will be diffused and designed for non-erosive velocities before entering stream and wetland areas to the maximum extent practicable;
- Rip rap stabilization on banks of jurisdictional streams will be implemented to reduce erosion;
- Bridging Warner Creek and Little River would reduce permanent stream impacts. No deck drains will be used for these crossings. Deck drainage will be collected in storm drain systems off the ends of the bridges and discharged into either grassed ditches or grassed swales before entering the streams.

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 7,697 Warm Water Stream Mitigation Units and 2.40 Riparian Wetland Mitigation Units within the Yadkin River Basin (Cataloging Unit 03040104). Stream mitigation was provided at a 2:1 mitigation to impact ratio for permanent stream losses of 3,128 linear feet of stream channel and at a 1:1 mitigation to impact ratio for permanent stream losses of 1,441 linear feet of stream channel. Wetland mitigation was provided for permanent riparian wetland losses at a 2:1 ratio for 1.2 acres.

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment for modifications to R-0623:

Providing payment to NCDMS for the impacts to R-0623 including 606 Warm Stream Mitigation Units within the Yadkin River Basin (Cataloging Unit 03040104). Stream mitigation is proposed at a 2:1 ratio for permanent stream losses of 270 linear feet and at a 1:1 ratio for permanent stream losses of 66 linear feet.

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 September 14, 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 (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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, September 14, 2016. Comments should be submitted to Andrew Williams, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 ,Wake Forest, North Carolina 27587, at (919) 554-4884 extension 26.