



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: September 24, 2019  
Comment Deadline: October 24, 2019  
Corps Action ID Number: SAW-1992-03237

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation seeking Department of the Army authorization to construct Section E of Transportation Improvement Project (TIP) R 2303 Hwy 24 improvements in Sampson 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:

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

**Applicant:** North Carolina Department of Transportation-Division 3  
Attn: Ms. Karen Collette, PE  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

**AGENT (if applicable):** North Carolina Department of Transportation-Division 3  
Attn: Mr. Mason Herndon  
5501 Barbados Blvd.  
Castle Hayne, NC 28429

## 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: **This request is only for Section E as sections A, B, C, and D have been constructed or are under construction. This segment requires**

**improvements to NC 24, US 421/US 701/SR 1296 (Sunset Avenue) to west of SR 1920 (Moltonville Road) in Sampson County.**

Project Area (miles): 1.83                      Nearest Town: Clinton  
Nearest Waterway: Dollar Branch              River Basin: Cape Fear  
Latitude and Longitude: 34.963 N, -78.304 W

**Existing Site Conditions**

The project is located within the Southern Inner Coastal Plain. The project is located in the Cape Fear River Basin and lies within Hydrologic Unit 03030006 (Subbasins 03-06-18/03-06-19). The project crosses South River, Big Swamp, Little Coharie Creek, Bearskin Swamp, Great Coharie Creek, Six Runs Creek, and their tributaries. A portion of the South River is classified as ORW but lies outside the project area. There are no high quality waters noted in the project area or immediate vicinity. South River, from US 13 to Big Swamp, was reported on the 303(d) list of impaired waters according to information taken from the FEIS. The wetlands within the project area are characterized by cowardin classifications; *palustrine emergent*, *palustrine forested*, *palustrine scrub shrub*, *palustrine unconsolidated bottom*, and *riverine lower perennial*. The riverine influenced wetland systems include the South River, Big Swamp, Little Coharie Creek, Great Coharie Creek, Six Runs Creek, Buckhall Creek, Carltons Mill Run, and Bakers Branch. All of the riverine wetland systems throughout the project area are subject to influence from beaver activity.

The biotic communities identified in the project area include agricultural land, maintained/urban disturbed land, successional/clear-cut land, pine woodlands, mixed pine/hardwood forest, mixed hardwood forest, cypress-gum swamp, and coastal plain small stream swamp. Topography is characterized as relatively low relief with land surfaces that are nearly level to gently sloping with some side slopes along the shallow stream valleys. Topographical elevations range from 70 to 170 feet above sea level. In general elevations slightly decrease moving from west to east across the study area, especially for the stream channels, although the highest elevations are found south of Clinton.

**Applicant’s Stated Purpose**

The overall purpose of the proposed project is to provide an efficient link between two major interstate highways (I-95 and I-40), increase capacity, improve traffic operations, and improve safety of travel within and through the NC 24 study area corridor.

**Project Description**

*Permit History:* In addition to R-2303E there are five other sections associated with this project. A phased permit was issued in December 2012 where the A section was permitted with final design, Section B was permitted with final design in March 2013 and

sections C & D were permitted with final design in July 2013. Section F has been and continues to be permitted with only preliminary design. A permit extension was issued for the R-2303 permit in June 2017. This modification request updates the final impacts to the R-2303E section of this project. The original permit required that Section E and F be placed on public notice to circulate the final design drawings soliciting comments. The project is scheduled to be Let (advertised for bids) in December 2019.

*Impacts to Jurisdictional Resources:* From preliminary to final plans wetland and stream impacts increased slightly. The wetland increase was associated with additional mechanized land clearing necessary for erosion control and constructability requirements. The stream increase was in part due to updated stream delineations that identified more stream channel than was originally identified. The impacts to jurisdictional wetlands and surface waters for R-2303E are summarized below;

Table 2. R-2303E Wetland Impacts

Permit Drawing Site Number (2012)	Map Label in FEIS (2010)	Type	Permanent Impacts (ac.)	Temporary Impacts (ac.)	Mitigation Required <sup>a</sup>
1	248	Riparian	0.098	0.024	Yes
2	250	Riparian	0.769	0.006	Yes
3	251	Riparian	0.124	0	Yes
5	254	Non-Riparian	0.010	0	Yes
6	256	Non-Riparian	0.002	0	Yes
7	247A/247B	Riparian	0.816	0.257	Yes
<b>Total: <sup>c</sup></b>			<b>1.820 <sup>b</sup></b>	<b>0.286</b>	

<sup>a</sup> For permanent impacts

<sup>b</sup> An increase of 0.24 ac. from the original application and 0.05 from 4C.

<sup>c</sup> Rounded totals are sum of actual impacts.

Table 5. R-2303E Surface Water Impacts

Permit Drawing Site Number	Waterbody	Permanent (ft)	Temporary (ft)	Permanent (ac.)	Temporary (ac.)	Mitigation Required <sup>a</sup>
a	stream	339	39	0.170	0.016	Yes
2	stream	847 <sup>d</sup>	20	0.200	0.005	Yes
3	stream	200	20	0.040	0.004	Yes
4	stream	99	52	0.019	0.010	Yes
7	stream	234	53	0.079	0.016	Yes
<b>Total: <sup>b</sup></b>		<b>1,719 <sup>c</sup></b>	<b>184</b>	<b>0.508</b>	<b>0.051</b>	

<sup>a</sup> For permanent impacts

<sup>b</sup> An increase of 203 lf. from original application and a decrease of 69 lf. from 4C when excluding bank stabilization.

<sup>c</sup> Include 87 lf. of bank stabilization at Site 1 and 93 lf. of bank stabilization at Site 7.

<sup>d</sup> 210 lf. of channel to be relocated.

Permanent Impacts: Proposed permanent impacts for R-2303E include fill, excavation, and mechanized clearing in wetlands. This includes impacts to

1.807 acres of riparian wetlands and 0.012 acres of non-riparian wetlands. Proposed permanent impacts to streams are 1,719 linear feet.

Temporary Impacts: There is 0.286 acre of temporary impacts to riparian wetlands for R-2303E. Proposed temporary impacts to surface waters is 184 linear feet.

Utility Impacts: Within R-2303E there will be power, telephone, and water relocations. Only temporary impacts are required for the aerial utility relocation at Site 1 (Hand Clearing 0.002 acres) as shown on permit drawing 2 of 37 and 3 of 37). There are no other impacts associated with the other utility relocations.

Hand Clearing: The hand clearing totals due to the project construction are 0.198 acres.

*Table 8. Summary of Wetland and Stream Impacts for R-2303E*

Section	Permanent Wetland (ac.)		Temporary Wetland (ac.)		Permanent Stream (lf.)	Temporary Stream (lf.)
	Riparian	Non-riparian	Riparian	Non-riparian		
E	1.807	0.012	0.286	0	1,719	184

**The above site numbers correspond with the attached or referenced permit drawing sheets.**

### **Avoidance and Minimization**

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

All jurisdictional features were delineated, field verified and surveyed within the corridor for R-2303. Using these surveyed features, final designs were adjusted to avoid and/or minimize impacts to jurisdictional 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 and which will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. Individual avoidance and minimization items are as follows:

- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters.
- The project was designed to avoid or minimize disturbance to aquatic life movements.
- NCDOT and its contractors will not excavate, fill, or perform land clearing activities within Waters of the U.S. or any areas under the jurisdiction of the USACE, except as authorized by the USACE. To ensure that all borrow and

waste activities occur on high ground, except as authorized by permit, the NCDOT shall require its contractors to identify all areas to be used to borrow material, or to dispose of dredged, fill or waste material. Documentation of the location and characteristics of all borrow and disposal sites associated with the project will be available to the USACE on request.

- Preformed Scour Holes will be used where practicable.
- Storm water will be treated using grass swales and an infiltration basin.
- NCDOT will implement Best Management Practices for Bridge Demolition and Removal.
- NCDOT will implement Best Management Practices for the Protection of Surface Waters.
- Special Sediment Control Fence will be used where applicable
- Perpendicular stream crossings will be used where possible.
- 3:1 side slopes will be used within the jurisdictional areas.
- Bank stabilization will not place rip-rap in stream bottom and will reduce erosion and sedimentation.

### **Compensatory Mitigation**

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

The proposed construction of R-2303E will impact 1.807 acres of riparian and 0.012 acres of non-riparian wetlands that will require mitigation. The impacts from the R-2303E will be offset by compensatory mitigation provided by the North Carolina Division of Mitigation Services (DMS).

Permanent stream impacts (loss of waters) for the R-2303E total 1539 linear feet (1,719 lf of permanent impact minus 180 lf of bank stabilization). The 1,539 linear feet of permanent stream impacts (loss) will be mitigated through DMS.

### **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:

- 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). *According to the EIS signed by FHWA there no historic properties within the selected routes in the E corridor.*

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, with the following exception:

#### **Northern Long-eared Bat**

The US Fish and Wildlife Service has developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (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 Sampson County where R-2303E is located. This level of incidental take is authorized from the effective date of a final listing determination through April 30, 2020.

### **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 NCDEQ-DWR 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 October 15, 2019 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):**

- 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, October 24, 2019. Comments should be submitted to Brad Shaver, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4611 or via email [brad.e.shaver@usace.army.mil](mailto:brad.e.shaver@usace.army.mil).