



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: November 27, 2019
Comment Deadline: December 11, 2019
Corps Action ID Number: SAW-2008-03183

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NC DOT) seeking Department of the Army authorization to modify the standard permit for NC DOT on-going U-2579B project, Corps File No., SAW No. 2008-03183. U-2579B is a section of the Winston-Salem Northern Beltway, from US 158 to I-40 Business/US 421, in Forsyth County, near Kernersville, North Carolina. This modification includes the relocation and backfill of 80 linear feet of an unnamed tributary to Smith Creek and 1,711 linear feet of Smith Creek, to accommodate the northbound on-ramp to the newly constructed Winston-Salem Northern Beltway. NC DOT would relocate the stream channels using Natural Stream Design (NSD).

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: North Carolina Department of Transportation
Attn: Ms. Carla Dagnino
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

Location Description: The project is a new section of the Winston Salem Beltway Eastern Section from US 158 to I-40 Business. The project is currently under construction.

Project Area (acres): approx. 16 acres Nearest Town: Kernersville
Nearest Waterway: Smith Creek River Basin: Yadkin River
Latitude and Longitude: 36.112844 N, - 80.118055 W

Existing Site Conditions

I-40 Business and Smith Creek run parallel in the project area. Two existing aquaculture ponds are to the north of Smith Creek and I-40 Business. Existing land uses in the project corridor are primarily rural-residential, interspersed with scattered commercial and industrial development along the major traffic arteries with a concentration of commercial and industrial development at the I-40 Business / US 421 interchange.

Applicant's Stated Purpose

The purpose of the U 2579B project is to increase the traffic carrying capacity, reduce accident rates, and relieve traffic congestion in the area surrounding US 158 and I-40 Business/US 421.

Project Description

The overarching permit (under review for modification) is the construction of 4.06 miles of new beltway north of Winston-Salem from US 158 to I-40 Business/US 421. This modification request includes the relocation and backfill of 80 linear feet of an unnamed tributary to Smith Creek and 1,711 linear feet of Smith Creek, to accommodate the northbound on-ramp to the newly constructed Winston-Salem Northern Beltway. NC DOT would relocate the stream channels using Natural Stream Design (NSD).

The relocated stream channels would measure 344 linear feet for the unnamed tributary and 2,127 linear feet for Smith Creek. Also proposed are impacts to two existing ponds (1.62 acres and 6.20 acres in size). The ponds will be drained, graded, and planted to support the newly relocated Smith Creek and unnamed tributary to Smith Creek. The previously authorized bank stabilization in this area of the project, along with the previously authorized temporary construction impacts, have changed with the proposed modification. Revised impacts at Smith Creek (Site 23) include the addition of 19 linear feet of bank stabilization and the reduction of 91 linear feet of temporary stream impacts. Also at Smith Creek (Site 28), there has been a reduction of 74 linear feet of previously permitted stream bank stabilization, and elimination of 127 linear feet of permitted temporary impacts.

The modification of this permit for the relocation of Smith Creek and its unnamed tributary, using NSD, will now bring the total stream impacts for the U-2579B Section of the W-S Beltway to: 12,480 linear feet of permanent stream impacts and 1,570 linear feet of temporary impacts. There is no change to wetland impacts. The two (2) ponds that will be drained and filled total 7.82 acres of open water impacts.

NC DOT has determined that the only option for the construction of the northbound on ramp to the Winston Salem Northern Beltway in this location is to relocate Smith Creek and its unnamed tributary from the proposed road fill. A culvert option was evaluated, but the length of the culvert would complicate maintenance and inspections (located under a travel lane), would have drainage complications, is cost prohibitive, and was overall determined to be structurally unsound.

Avoidance and Minimization

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

The avoidance of Smith Creek and the unnamed tributary to Smith Creek cannot occur, as NC DOT determined Smith Creek has undermined the existing I-40 Business road slopes, and has down-cut considerably with recent storms. Piping Smith Creek (and the unnamed tributary) for over 2,000 linear feet in a travel lane proves close to impossible for NC DOT to maintain the culvert, which would have drainage complications, and has been found to be structurally unsound. These conditions make placing Smith Creek in a culvert at this project location cost-prohibitive. If successful, relocating Smith Creek and the unnamed tributary using NSD, should result in more functional stream channels than existing conditions.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Natural Stream Design would be employed to relocate the stream channels. Smith Creek is currently incised and does not have access to a floodplain throughout most of its length in the project area. The newly relocated channels, should provide stable meandering channels, with vegetated banks. The newly relocated streams should have/gain access to floodplains, before re-entering Smith Creek downstream of the project area. The NC DOT will monitor the site per the monitoring plan. However, the Corps may require compensatory mitigation if functions and services of the stream channels are not replaced sufficiently to compensate for functions and services lost by the relocations.

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:

- 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).

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.

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 December 11, 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 (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 11, 2019. Comments should be submitted to Nicholle Braspennickx, via email at Nicholle.M.Braspennickx@usace.army.mil, or by mail to U.S. Army Corps of Engineers, Asheville Regulatory Office, 151 Patton Avenue, Room 208, Asheville, North Carolina, 28801, or by phone at (704) 510-0162.