



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 30, 2019
Comment Deadline: July 1, 2019
Corps Action ID Number: SAW-2009-00556

The Wilmington District, Corps of Engineers (Corps) has received an application from the North Carolina Department of Transportation (NCDOT), Environmental Analysis Unit, seeking Department of the Army authorization to discharge fill material into waters of the United States associated with the proposed 12.8 miles of widening of and improvements to I-40 from the I-40/I-440/US64 interchange in Wake County to just north of SR 1525 (Cornwallis Road) in Johnston County, North Carolina (TIPs I-5111 and I-4739; Federal Aid Project No. IMNHF-040-4(139)301). The improvements would include modifying the interchanges and replacing the bridges along I-40. The project impacts 1.18 acres of wetlands, 7,939 linear feet (lf) of tributaries, and 0.58 acre of ponds, regulated under Section 404 of the Clean Water Act.

Specific location information is described below. Construction plans are not attached to this Public Notice due to the large amount of pages. However, electronic copies of this Public Notice and the construction plans can be found at:

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

Applicant: North Carolina Department of Transportation (NCDOT)
Environmental Analysis Unit
Attn: Philip S. Harris, PhD
1548 Mail Service Center
Raleigh, NC 27699-1548

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)

Agency Review

This project has been through an extensive interagency agency review process in coordination with the Federal Highway Authority (FHWA), the lead Federal agency.

Location

Location Description:

Nearest Towns: Raleigh, Garner and Clayton

Nearest Waterways: UTs to Walnut Creek, UTs to Big Branch, UTs to Mahlers Creek,
UTs to White Oak Creek, UTs to Mill Branch, and Swift Creek and UTs.

River Basin: Neuse

Latitude and Longitude (near center of project at US 70 Business): 35.691 N, - 78.573 W

Existing Site Conditions

The project impact sites are typical lower piedmont, upper coastal plain streams, and typical lower piedmont, upper coastal plain bottomland hardwood forest, headwater forest, and basin emergent wetlands. Topography in the project vicinity is comprised of gently rolling hills with narrow, level floodplains along streams. Elevations in the study area range from approximately 190 to 400 feet above mean sea level. Land use in the project vicinity consists primarily of developed commercial and residential properties, interspersed with forested and agriculture lands, and some industrial uses, in south eastern Wake and eastern Johnston Counties.

The NC Division of Water Resources (NCDWR) Best Usage Classification for all of the impacted streams is C/NSW (Nutrient Sensitive Waters).

Applicant's Stated Purpose

The project's purpose is to provide relief from present and future congestion and to provide a higher level of service on I-40.

Project Description

The project would widen and improve approximately 12.8 miles of I-40 from the I-40/I-440/US64 interchange in Wake County to just north of SR 1525 (Cornwallis Road) in Johnston County. The improvements would include modifying the interchanges and replacing the bridges along I-40.

The project would add two lanes in each direction along I-40. At bridge crossings and noise wall locations on the highway, it would also include an additional 18 feet of outside paved shoulder to accommodate one lane of potential future widening, without requiring future grading or structure replacement at those locations. Additional widening at noise walls occurs on less than 3% of the total project length. This additional space could

accommodate the future managed lanes that are anticipated based on Capital Area Metropolitan Planning Organization's 2040 Metropolitan Transportation Plan.

The project also would construct a new double-diamond interchange to replace the existing I-40/NC 42 interchange, a new collector-distributor system along I-40, a new diamond interchange at Cleveland Road, a roundabout at Glen Road and Technology Drive, additional turn lanes on Glen Road at NC 42, access modifications along Cleveland Road, and additional turn lanes on Old Drug Store Road.

Avoidance and Minimization

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

- Design Standards in Sensitive Watersheds [15A15A NCAC 04B .0124(b) – (e)] would be incorporated throughout the entire project.
- Prior to commencing construction on the Swift Creek bridge, NCDOT, in collaboration with USFWS and NCWRC, would develop and implement a Mussel Relocation Plan to remove mussels from a salvage area (to be determined in the Mussel Relocation Plan).
- Bridge bents would not be located in the channel of Swift Creek or within 10 feet (horizontally) of either top of bank to the extent practical.
- No permanent fill required to build the bridge would be placed within Swift Creek. All permanent and temporary structures would be positioned such that they would not result in any bank instability or cause significant sediment to runoff into Swift Creek.
- Bioretention basins with media filter and hazardous spill basins within the immediate vicinity/floodplain of the crossing of Swift Creek would be constructed (see plan sheet 40).
- Environmentally Sensitive Areas are to be designated as a 50-foot buffer zone on both sides of the streams within 0.25-mile of Swift Creek as well as Swift Creek proper. Within these Environmentally Sensitive Areas the following would apply:
 - The contractor may perform clearing operations but not grubbing operations until immediately prior to beginning grading operations.
 - Once grading operations begin in identified Environmentally Sensitive Areas, work would progress in a continuous manner until complete.
 - Erosion control devices would be installed immediately following the clearing operation.
 - Seeding and mulching would be performed on the areas disturbed by construction immediately following final grade establishment.
 - Seeding and mulching would be done in stages on cut and fill slopes that are greater than 20 feet in height measured along the slope or greater than two acres in area, whichever is less.
- Offsite detours would be utilized to the maximum extent practicable.
- No heavy equipment would be placed in the streams.

- Best Management Practices for bridge demolition and removal would be implemented (NCDOT 2003, NCDOT 2014a, or newer).
- Bridges would be removed from the top down, first removing the asphalt with containment measures in place to prevent asphalt from dropping into the stream. The method of containment would be proposed by the contractor and approved by the project engineer. This would be followed by removal of the decking, girders, and finally the piles/shafts/columns.
- No new bents would be placed in the channel (unless justification is provided and then accepted by the USFWS).
- Existing abutments would be completely removed unless removal would result in destabilization of banks or increase adverse effects to listed mussels.
- Deck drains would not be allowed to discharge directly into the stream.
- Special sediment control fence (NCDOT Standard No. 1606.01) or a combination of special sediment control fence and standard silt fence would be installed between the top of the stream bank and bridge embankment. Once the disturbed areas of the project draining to these areas have been stabilized, the special sediment control fence and/or silt fence and all built up sediment adjacent to these devices would be removed to natural ground and stabilized with a native grass mix.
- All appropriate sedimentation and erosion control measures, throughout the project limits, would be cleaned out when half full to ensure proper function of the measures.
- Coir fiber matting or clean riprap (underlain with geotextile) would be installed on the footprint of unclassified structure excavation near the streambanks.
- Embankment construction and grading would be managed in such a manner as to prevent surface runoff/drainage from discharging untreated into the riparian buffer. All interim surfaces would be graded to drain to temporary erosion control devices. Temporary berms, ditches, etc. would be incorporated, as necessary, to treat runoff before discharging into the riparian buffer (as specified in NCDOT BMP manuals).
- USFWS, FHWA, USACE, NCDWR, and NCWRC would be invited to any preconstruction meetings associated with the installation of structures within 0.25 mile of Swift Creek
- No borrow/waste site locations, staging areas, equipment storage areas, and refueling areas would be within 0.25 mile of Swift Creek without further coordination with USFWS during the approval process.
- The project footprint was adjusted to avoid and minimize direct wetland and tributary impacts, in consultation with regulatory and resource agencies.

Compensatory Mitigation

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

- 2.08 acres of wetland mitigation for 1.04 acre of permanent wetland impacts

- 13,612 lf of stream mitigation for 6,806 lf of stream loss
- 936,591 ft2 of Zone 1 mitigation for 312,197 ft2 of Zone 1 stream buffer impact
- 267,156 ft2 of Zone 2 mitigation for 178,104 ft2 of Zone 2 stream buffer impact

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 will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps has initiated consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed by the lead Federal Agency for this project, the Federal Highway Administration, for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the US Fish and Wildlife Service (USFWS). A copy of this public notice will be sent to the USFWS and the NMFS..
- 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 July 1, 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

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, July 1, 2019. Comments should be submitted to Eric Alsmeyer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554-4884, ext. 23.