



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 25, 2019
Comment Deadline: May 9, 2019
Corps Action ID Number: SAW-2012-00882

The Wilmington District, Corps of Engineers (Corps) has received an application for a modification and extension to an existing Department of Army (DA) permit from the North Carolina Department of Transportation (NCDOT), seeking authorization to permanently impact 1,366 linear feet (lf) of stream, 0.46 acre (ac) of permanent impacts to wetlands and 0.07 ac of temporary impacts to streams, associated with Section E of the proposed widening of US 221 to a four-lane, median-divided facility. The US221 widening was separated into Sections A-E and the original permit, issued January 7, 2015 presented final impacts for R-2915A, R-2915B and R-2915D. The final impacts were authorized for R-2915C on August 31, 2016. This modification request presents the final design impacts for R-2915E, a 3.3 mile section of the US221 widening, from the US 221 bypass to the US 221 Business/NC 88 intersection in the town of Jefferson in Ashe County, North Carolina.

General plans and location information are described below and shown on the attached maps. This Public Notice and more detailed project plans are also available on the Wilmington District Web Site at under this Corps Action ID#:

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

Additional project information and mapping can be viewed on the NCDOT website at:
<https://www.ncdot.gov/projects/us-221-widening/Pages/default.aspx>

Applicant: North Carolina Department of Transportation
Project Development and Environmental Analysis Unit
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

Location Description: The overall project site, comprising Section's R-2915 A-E, is located along the existing US 221 from US 421 in the Deep Gap Community of Watauga County, North Carolina to the US 221 Business/NC 88 intersection in the town of Jefferson in Ashe County, North Carolina. R-2915E is a 3.3 mile section from the US 221 bypass to the US 221 Business/NC 88 intersection in the town of Jefferson in Ashe County, North Carolina.

Nearest Town: West Jefferson and Jefferson

Nearest Waterway: Beaver Creek, Naked Creek and Little Buffalo Creek

River Basin: New River Basin (HUC 05050001)

Latitude and Longitude: 36.404872N, -81.480116W

Existing Site Conditions

The overall project lies within the Blue Ridge eco-region in the New River Basin (Hydrologic Unit Code 05050001) of North Carolina. The project site is mostly within the New River Plateau of the Blue Ridge eco-region, which consists of hilly, high plateau, some low mountains, moderate gradient streams with bedrock, boulder, cobble, and gravel substrates. Elevations within this eco-region range from 2,350 feet to 4,175 feet and include a local relief of 500-1200 feet.

The project corridor is located in the mid-southern portion of Ashe County, with the southern terminus located in the eastern portion of Watauga County. Existing land use in the project corridor consists primarily of NC DOT roadways, and forested and agricultural lands.

Water resources in the overall project area are part of the New River Basin (US Geological Survey Hydrologic Unit 05050001). Named streams within the project area are: Gap Creek, South Fork New River, Old Field Creek, Beaver Creek, Naked Creek and Little Buffalo Creek. Unnamed tributaries to these streams are in the project area, as well as unnamed tributaries to Cole Branch and South Beaver Creek. The North Carolina Division of Water Resources (NCDWR) surface water classification for Gap Creek, Old Field Creek, Beaver Creek, Cole Branch, South Beaver Creek and Little Buffalo Creek is Class C and Trout waters (Tr). Naked Creek is Class C only. Old Field Creek is also designated as an Outstanding Resource Waters (ORW) and the South Fork New River is designated as High Quality Waters (HQW) and Water Supply V (WS-V). Additionally, there are no Water Supply Waters I or II (WS-I or WS-II) within 1.0 miles of the project area. Little Buffalo Creek is currently listed on the North Carolina 2012 Final 303(d) list of impaired waters for having impaired ecological/biological integrity for benthos. There are a total of ninety-one jurisdictional stream segments and fifty-two adjacent, jurisdictional wetland sites proposed for impacts that are within the overall project area.

Applicant's Stated Purpose

As stated by the applicant, the purpose of this project is to upgrade the existing roadway to a multi-lane facility to increase capacity, alleviate congestion, improve traffic operations and reduce the rate of traffic crashes.

Project Description

The overall project is referred to as Transportation Improvement Project (TIP) R-2915. The applicant requested that the project be permitted in phases due to project size, funding and scheduling. The original permit application (submitted July 22, 2014) and subsequent DA Individual 404 Permit, issued January 7, 2015, presented final impacts for R-2915A, R-2915B, R-2915D and preliminary impacts for R-2915C and R-2915E. The final impacts were authorized for R-2915C on August 31, 2016. Permit modifications were requested for R-2915B on April 7, 2017 and R-2915C on June 15, 2018.

Original impacts for Sections E were roughly calculated using preliminary slope stakes plus 10 lf for wetlands and to the existing ROW for most streams. This modification proposal presents the final design impacts for R-2915E.

The preliminary design impacts projected from the 2014 permit application for R-2915E were 405 lf of permanent stream impacts, 0.52 ac permanent impacts to wetlands and <0.01 ac of temporary stream impacts. Final design impacts for R-2915E include **1,366 lf** of stream, **0.46 ac** of permanent impacts to wetlands and **0.07 ac** of temporary impacts to streams.

According to the applicant the total stream impacts for R-2915E have increased since the preliminary impacts were presented in 2014, a few streams have been delineated since then, the slopes have changed in a few locations, bank stabilization impacts have been added and drainage design at the time was very preliminary.

Although this project was previously put on public notice, given that the current proposed impacts to waters of the U.S. include an increase in stream impacts deemed significant to the public interest, the current proposal to construct R-2915E is being placed on public notice for an additional 15 days.

Information regarding the specific Sections (A-E) are shown in Table 1 below:

Table 1 – Project phasing for US 221 Widening (R-2915)

Section	Approximate Section Limits	Approximate Length	Construction Letting
R-2915A	US 421 in Watauga County to SR 1003 (Idlewild Road)	2.8 miles	Sept 2015
R-2915B	SR 1003 (Idlewild Road) to north of the South Fork New River	1.77 miles	Sept 2015
R-2915C	North of the South Fork New River to south of NC 194	3.98 miles	Nov 2016
R-2915D	South of NC 194 to US 211 Bypass	4.3 miles	Feb 2015
R-2915E	US 221 Bypass to US 221 Business/NC 88 in Jefferson	3.3 miles	Sept 2019
TOTAL		16.1 miles	

Tables 2 and 3 summarize the current impacts to jurisdictional water resources for of R-2915.

Table 2 – Summary of Wetland Impacts for R-2915

Section	Design Stage	Wetland Impact Type	Wetland Impact Area (ac)	Wetland Impacts Requiring Mitigation (ac)*
R-2915A	Final	Perm. Wetland Fill	0.48	0.57
		Excavation in Wetlands	0.01	
		Mechanized Clearing in Wetlands	0.08	
		Hand Clearing in Wetlands	0.05†	
R-2915B	Final	Perm. Wetland Fill	0.32	0.43
		Excavation in Wetlands	0.04	
		Mechanized Clearing in Wetlands	0.06	
		Temporary Fill in Wetlands	0.15	
R-2915C	Final	Perm. Wetland Fill	0.22	0.27
		Excavation in Wetlands	--	
		Mechanized Clearing in Wetlands	0.05	
R-2915D	Final	Perm. Wetland Fill	1.01	1.32
		Excavation in Wetlands	0.01	
		Mechanized Clearing in Wetlands	0.30	
R-2915E	Final	Perm. Wetland Fill	0.28	0.46
		Excavation in Wetlands	0.05	
		Mechanized Clearing in Wetlands	0.13	
		Temporary Fill in Wetlands	<0.01	
Total				3.05

†Additionally, 0.01 acre of temporary fill in wetlands will occur in the hand clearing areas for erosion control measures

* Values are based on rounding, due to calculating totals with actual numbers to the thousandths

Table 3 – Summary of Stream Impacts for R-2915

Section	Design Stage	Stream Impact Type	Impact Length (lf)	Temporary Impacts (ac)	Stream Impacts Requiring Mitigation (lf)
R-2915A	Final	Permanent Fill	1,119	--	1,119
		Bank Stabilization	402	--	
		Temporary	--	0.05	
R-2915B	Final	Permanent Fill	493	--	493
		Bank Stabilization	431	--	
		Temporary	--	0.15	
R-2915C	Final	Permanent Fill	2,339	--	2,339
		Bank Stabilization	234	--	
		Temporary	--	0.09	
R-2915D	Final	Permanent Fill	2,627	--	2,627
		Bank Stabilization	126	--	
		Temporary	--	0.05	

R-2915E	Final	Permanent Fill	907	--	907
		Bank Stabilization	459	--	
		Temporary	--	0.07	
Total			9,137	0.41	7,485

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: NCDOT has avoided impacting many wetlands and streams and reduced impacts to wetlands and streams to the greatest extent practicable. Wetland impacts have been kept to a minimum by avoiding ditching and channelization through wetlands. In addition to all of the measures listed in the 2014 phased permit application, other specific examples of avoidance and minimization measures include:

- There is a proposed dry detention basin at station -L- 718+00 RT to help minimize the increase in water at the existing 48” CMP under Mt. Jefferson Road which later travels under the Walmart Supercenter.
- Efforts were made to minimize impacts to Naked Creek, specifically in the Town of Jefferson’s park property.
- Where excavation is necessary, coir fiber matting and rip-rap were utilized for bank stabilization in an attempt to reduce sediment transport and streambank erosion.
- Measures have been taken, including reduction of pipe slopes and the use of drop structures (which are labeled on the plans) to lower velocities at jurisdictional features to non-erosive.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The NCDOT has avoided and minimized impacts to jurisdictional resources to the greatest extent practicable as described above. Section E will permanently impact 0.46 acre of wetlands, 1,366 linear feet of streams (907 linear feet of permanent fill and 459 linear feet of bank stabilization), and temporarily impact <0.01 acre of wetlands and 0.07 acre of streams. The North Carolina Division of Mitigation Services (NCDMS) will provide compensatory mitigation for the impacts in all sections of this project. Table 4 summarizes the total mitigation needs for all sections as 3.05 acre of wetlands impacts and 7,485 linear feet of stream impacts.

Table 4 – Summary of Mitigation Requested from NCDMS

Section	Design Stage	Wetland Impacts Requiring Mitigation (ac)	Stream Impacts Requiring Mitigation (ac)
R-2915A	Final	0.57	1,119
R-2915B	Final	0.43	493
R-2915C	Final	0.27	2,339
R-2915D	Final	1.32	2,627
R-2915E	Final	0.46	907
Total		3.05	7,485

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 for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to 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, 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 May 9, 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):

- 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 NCDWM, and the NCDWM 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 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, May 9, 2019. Comments should be submitted to Mr. Steve Kichefski, Asheville Regulatory Field Office , 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006 , at (828) 271-7980 extension 4234. Comments can also be emailed to steven.l.kichefski@usace.army.mil