



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: December 16, 2019
Comment Deadline: December 31, 2019
Corps Action ID Number: SAW-2018-01447

The Wilmington District, Corps of Engineers (Corps) received an amendment from the North Carolina Department of Transportation (NCDOT) regarding a potential future requirement for Department of the Army (DA) authorization to discharge dredged or fill material into waters of the United States associated with the proposed R-5706 A&B, NC 73 widening projects. The project's Least Environmentally Damaging Practicable Alternative (LEDPA) was preliminarily determined in April 2019, after receipt of public and agency inputs. Because of several changes to environmental and human resources, Alternative 1, (previously determined as the preliminary LEDPA) and the no build alternative, are once again being vetted for public and agency comment. The project is located in Mecklenburg and Cabarrus Counties, North Carolina.

Proposed impacts to waters of the U.S. for Alternative 1, widening of NC 73, include the permanent fill of 0.62 acres wetlands, 2,687 linear feet of stream channels and 0.33 acres of open water.

Recent changes to Alternative 1 include re-delineation of waters of the U.S. inside the existing right-of-way, as well as inclusion of waters of the U.S. in areas of expanded right-of-way. A significant change to Alternative 1 includes a proposed 2-way bridge built south of the Coddle Creek Reservoir causeway. This 2-way bridge would encompass all of NC 73 widening. Previously, Alternative 1 proposed to use the existing NC 73 on/near the causeway for one direction of traffic, and then proposed another bridge south of the causeway for the other traffic direction. Due to engineering constraints, building widened NC 73 on the existing Coddle Creek causeway is not a viable option. Alternative 1 has been modified to include a new bridge, to accommodate both directions of traffic, off NC 73's current alignment, to the south of the Coddle Creek causeway. This may result in additional displacement of homes/businesses.

Another change to Alternative 1 has occurred in pursuit of obtaining the necessary Certification of Appropriateness from the local historic landmark commission. To avoid certain eligible historic resources, the NC 73 alignment has been moved. This change in the NC 73 alignment may result in displacement of eight (8) additional residences.

Other changes to Alternative 1 include the use of Multi-Use Paths between Poplar Tent Road and I-85 in Cabarrus County. A reduced conflict intersection is now being proposed at Poplar Tent Road, vs. a quadrant roadway design. The intersection design at Kannapolis Parkway has changed to a quadrant road in the northeast quad, and a ramp is being added in the southeast quad.

Specific plans and location information are described below and shown on the attached plans (Figures 5A – 5Q, dated November 2019). This Public Notice and all attached plans are also available on the Wilmington District Web Site at:

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

Applicant: Ms. Theresa Ellerby
North Carolina Department of Transportation
1582 Mail Service Center
Raleigh, North Carolina 27699
Phone: 919-707-6020, email: tellerby@ncdot.gov

AGENT (if applicable): Mr. Adam Karagosian
WSP USA, Inc.
1001 Morehead Square Drive, Suite 610
Charlotte, North Carolina 28203
Phone: 704-342-8464, email adam.karagosian@wsp.com

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)

In order to more fully integrate Section 404 permit requirements with the National Environmental Policy Act (NEPA) of 1969, and to determine that the project is not contrary to the public interest and complies with the 404(b)(1) Guidelines, the Corps is soliciting public comment on the merits of this proposal and on the alternatives evaluated in the NCDOT Environmental Assessment (EA) (Scheduled for completion in September 2019). Information on NCDOT's R 5706 A & B is available on the NCDOT website at <https://www.ncdot.gov/projects/nc-73-mecklenburg-cabarrus/Pages/default.aspx>.

At the close of this comment period, the District Commander will evaluate and consider the comments received as well as the expected adverse and beneficial effects of the proposed road construction to reconsider the selection of the least environmentally damaging practicable alternative (LEDPA). The District Commander is not authorizing construction of the proposed project at this time. Authorization for this project (i.e., a DA Individual Permit or verification letter for the use of a General Permit) may be issued only after our review process is complete, impacts to the aquatic environment have been minimized to the maximum extent practicable, and a compensatory mitigation plan for unavoidable impacts has been approved.

Location NC 73 for 11.3 miles between SR 2693 (Davidson-Concord Road) in Mecklenburg County, and US 29 in Cabarrus County.

Project Area (acres): 2,545.1 acres

Nearest Town: Caldwell/Hopewell in Mecklenburg County,
Kannapolis Concord in Cabarrus County.

Nearest Waterway: Coddle Creek

River Basin: Upper Pee Dee

Latitude and Longitude: 35.43743 N, -80.70514 W

R-5706A: incorporates NC 73 from SR 2693 (Davidson-Concord Road) to SR 1394 (Poplar Tent Road), near the Mecklenburg/Cabarrus County line.

R-5706B: incorporates NC 73 from SR 1394 (Poplar Tent Road) to US 29 (Concord Parkway North) in Cabarrus County, North Carolina.

Existing Site Conditions

The proposed projects begin in northwestern Mecklenburg County, within the towns of Caldwell/Hopewell and extend east along NC 73 for approximately 11.3 miles to US 29 in Kannapolis/Concord, Cabarrus County.

The R-5706 study area encompasses various land uses. The Don T. Howell Reservoir (also referred to as Coddle Creek Reservoir) is in the middle of the project corridor and is managed by the Water and Sewer Authority of Cabarrus County. West of the Don T. Howell Reservoir, land use has historically been rural and agricultural. Recently, subdivisions and shopping centers have been developed or are planned in this area.

Land use south of the reservoir is primarily undeveloped or low-density residential. This land use is expected to remain the same for the foreseeable future. Between Kannapolis Parkway and I-85 land use is primarily commercial with industrial sites and large-scale distribution facilities.

The study area between I-85 and US 29 is fully developed with subdivisions and multi-family housing. While commercial sites are scattered throughout this segment, commercial development is primarily concentrated east, near the intersection with US 29.

The existing NC 73 is a two-lane undivided highway with no bicycle accommodations and very limited pedestrian accommodations. NC 73 is currently wider at a number of signalized intersections to accommodate turn lanes. There is currently no control-of-access along NC 73, which limits the level of mobility and travel speeds through the corridor due to numerous driveways for residences and businesses on both sides of the road. The existing right-of-way of NC 73, within the project study area, varies and is primarily 60 feet, with wider sections at some intersections.

Applicant's Stated Purpose

The purpose of the project is to increase mobility on NC 73, between SR 2693 (Davidson-Concord Road) and I-85, and between US 29 (Concord Parkway North) and I-85, reduce congestion at the intersections, improve traffic operations along NC 73 with an operational target of Level of Service (LOS) D in the 2040 design year, and to provide bicycle and pedestrian facilities.

Project Description

The NCDOT R-5706 A & B projects propose multi-lane improvements to NC 73 from SR 2693 (Davidson-Concord Road) in Mecklenburg County to US 29 (Concord Parkway) in Cabarrus County, North Carolina.

R-5706 A, between SR 2693 (Davidson-Concord Road) and SR 1394 (Poplar Tent Road) in Mecklenburg County, proposes a 4-lane divided facility with a 30' raised median, curb and gutter, and multi-use paths on both sides of the road.

R-5706 B, between SR 1394 (Poplar Tent Road) and US 29 (Concord Parkway North) in Cabarrus County, also proposes 4-lane divided facilities: From SR 1394 (Poplar Tent Road) to I-85, a 4-lane section with a 30' raised median, curb and gutter, sidewalks and bike lanes on both sides of the road is proposed. From I-85 to US 29, NC 73 would be 4-lanes with a 23' raised median, curb and gutter, and sidewalks and bike lanes on both sides of the road.

Lane widths would be 12' from SR 2693 (Davidson-Concord Road) to I-85, and would be 11' from I-85 to US 29 (Concord Parkway). Various improvements to intersecting roads are proposed.

Proposed impacts to waters of the U.S. for Alternative 1, widening of NC 73, include the permanent fill of 0.62 acres wetlands, 2,687 linear feet of stream channels and 0.33 acres of open water.

A no build alternative would maintain the existing NC 73. Impacts to the natural and human environment would not occur; however, a no build concept does not address the purpose and need for the project.

All concepts exclude improvements around the I-85 interchange at NC 73. The interchange was previously converted to a Diverging Diamond Interchange as part of the I-85 widening, and was completed in 2014. The R-5706 B design would primarily tie to this previously constructed project.

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 attempted to avoid or minimize impacts to streams and wetlands to the greatest practicable extent. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts for the selected Alternative. Specific measures employed to minimize impacts include:

- NCDOT's design has vertical and horizontal alignments and intersection configurations that avoid jurisdictional resources to the maximum extent practicable, while also minimizing impacts to competing resources.
- NCDOT's design utilizes 2:1 slopes to minimize impacts to wetlands, streams, and open waters.
- NCDOT proposes to retain and extend all existing major hydraulic structures where practicable, minimizing stream and wetland impacts.
- NCDOT will construct a bridge at Afton Run and remove the existing culvert at this location, avoiding permanent impacts to a jurisdictional stream that would have resulted from a culvert extension.
- Alternative 1 (if selected) proposes a bridge to the south side of NC 73 and avoids widening the existing NC 73 causeway to the north, avoiding permanent impacts to the reservoir.
- To avoid impacts to Wetland WAZ, NC 73 widening would occur on the south side.
- To minimize impacts to Stream SDA, NC 73 widening would occur on the south side.
- In four (4) locations, sidewalks were designed to be closer to the roadway to avoid and minimize impacts to wetlands and streams.

Compensatory Mitigation

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

NCDOT will review the project for on-site mitigation opportunities. If no feasible opportunities exist, NCDOT will acquire mitigation from the NC Division of Mitigation Services for mitigable impacts to jurisdictional resources on the project.

Public Meeting

NCDOT will be holding a public meeting on Tuesday, December 10, from 6 pm – 8 pm at Christ King Catholic High School, 2011 Crusader Way, Huntersville, NC 28078. Please contact Clair Caprariello at 516-639-9732.

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 will not adversely affect 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).

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 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 December 31, 2019 to:

NCDWR Central Office
Attention: Ms. Amy Chapman, Transportation Services, 401 Certification
(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, December 31, 2019. Comments should be submitted to Ms. Nicholle Braspennickx, U.S. Army Corps of Engineers, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5000, at Phone: 704-510-0162, or at email: Nicholle.M.Braspennickx@usace.army.mil.