



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: August 14, 2019  
Comment Deadline: September 12, 2019  
Corps Action ID Number: SAW-2018-01504

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 reconstruct the I-40/I-77 Interchange in Statesville, Iredell County, North Carolina. The project would result in permanent impacts to 3,194 linear feet of stream channel (1,019 linear feet of which is bank stabilization), temporary impacts to 394 linear feet of stream channel, permanent fill of 1.06 acres of wetlands, mechanized clearing of 0.33 acre of wetlands, and temporary impacts to 2.56 acres of wetlands (hand-clearing). Utility impacts include an additional permanent fill of <0.01 acre of wetlands, mechanized clearing of 0.02 acre of wetlands and temporary impacts to 0.27 acre of wetlands.

This Public Notice and all attached plans (Permit Plan Sheets 1-67 and Utility Plan Sheets 1-8) are available on the Wilmington District Web Site at:

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

**Applicant:** Mr. Phillip S. Harris, III, P.E., C.P.M.  
North Carolina Department of Transportation  
1598 Mail Service Center  
Raleigh, North Carolina 27699

## 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: I-40 and I-77 Interchange in Statesville, North Carolina

Project Area (acres): 350

Nearest Town: Statesville

Nearest Waterway: Fourth Creek

River Basin: Yadkin Fear River Basin

Latitude and Longitude: 35.809806 N, -80.861192 W

## **Existing Site Conditions**

The I-40 and I-77 interchange is currently a cloverleaf interchange with loops in 3 quadrants.

## **Applicant's Stated Purpose**

The I-40/I-77 interchange is currently experiencing traffic capacity deficiencies and the diminished ability to function as a North Carolina Strategic Highway Corridor and United States Interstate System. The primary purpose of this project is to improve traffic flow along the I-40 and I-77 corridors; and improve regional connectivity between Iredell County and points east, west, north, and south within North Carolina and across the Interstate system. In addition to operational improvements, there are safety benefits associated with the proposed design. The turbine interchange design will replace two (2) of the existing loop ramps with directional ramps, eliminating two (2) weaving segments between loop ramps, providing adequate acceleration and deceleration lane lengths throughout the project area.

## **Project Description:** From the Application:

I-3819B involves the construction of a turbine interchange. The interchange ramps previously constructed as part of the I-3819A project will remain as components of the new turbine interchange. The current interchange will be revised to a two-level turbine interchange replacing the loops in the northwest and southeast quadrants with directional ramps. New bridges will be constructed to accommodate the two-lane directional ramps for eastbound I-40 to northbound and southbound I-77. A new two-lane bridge will be constructed to accommodate traffic from westbound I-40 to southbound I-77; this new bridge will be constructed above I-77 and above I-40. The ramp for eastbound I-40 to northbound I-77 will be constructed as a two-lane directional ramp; above I-77, and below I-40. One loop ramp will remain and will be reconstructed in the southwest quadrant to accommodate southbound I-77 to eastbound I-40 traffic. I-40 and I-77 will be widened from two- to three-thru lanes in each direction in the project area, with additional lanes constructed to accommodate the new interchange ramps. In addition, a new eastbound collector-distributor (C-D) roadway will be constructed along the south side of I-40 between the existing US 21 interchange and the proposed turbine interchange.

The existing I-40 Diverging Diamond Interchange (DDI) at US 21 will remain in place. Improvements will be made to the existing eastbound I-40 interchange ramp at SR 2158 (Old Mocksville Road). The interchange with I-77 and SR 2321 (East Broad Street) will maintain the

current general configuration but the ramps from northbound and southbound I-77 will be widened to accommodate one additional lane on each ramp. In addition, the loop ramps from East Broad Street to I-77 will be slightly realigned.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project has been through the Merger process whereby Federal and State resource agencies convene with NC DOT to discuss project purpose and need, alternatives to carry forward, preferred alternative and avoidance and minimization to waters of the U.S. resources. The following includes avoidance and minimization decisions that were made by the applicant, NC DOT, and the resource agencies:

- Bridge wetlands in the southwest quadrant of the proposed interchange vs. filling them
- Shift location of ramps and other features to minimize the need for fill and clearing in wetlands
- Use hand clearing vs. mechanized clearing in wetlands when possible
- Increase bridge span length at Fourth Creek (Permit Site 5) to avoid wetland fill
- Increase roadway side slopes to decrease fill encroachment into streams and wetlands
- Shift northeast quadrant ramp to avoid wetlands and the stream channel in a NC DOT compensatory mitigation site
- Replace a pipe with a bridge under I-40 east of I-77
- Use a temporary bridge vs. a temporary fill for construction access at new ramp in northeast quadrant

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The North Carolina Department of Mitigation Services as agreed to provide compensatory mitigation for this project. The Corps will determine the amount of required mitigation once our permit evaluation is completed.

### **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 has no effect on 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 adversely affect federally listed endangered or threatened species or their formally designated critical habitat. The project may affect Northern Long Eared Bat with reliance upon the findings of the

1/5/2016 Programmatic Biological Opinion for Final 4(d) Rule on the Northern Long-Eared Bat and Activities Excepted from Take Prohibitions to fulfill our project-specific section 7 responsibilities

- 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.
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- 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, 401 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 September 4, 2019 to:

NCDWR Central Office  
Attention: Ms. Amy Chapman, 401 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):**

- 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 NCDCM, and the NCDCM 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 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, September 12, 2019. Comments should be submitted to **Ms. Nicholle Braspennickx**, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina, 28801. You can also reach Ms. Braspennickx by email at [Nicholle.M.Braspennickx@usace.army.mil](mailto:Nicholle.M.Braspennickx@usace.army.mil) or by phone at **(704) 510-0162**.