



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: April 01, 2019  
Comment Deadline: May 01, 2019  
Corps Action ID Number: SAW-2019-00428

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT), seeking Department of the Army (DA) authorization to permanently impact 12.66 acres of jurisdictional wetlands, 2426 linear feet of stream, 0.43 acres of surface waters and temporarily impact 0.03 acres of surface waters associated with construction of TIP Project R-2582A the widening of US 158 for 8.2 miles east of I-95 near the town of Garysburg, in Northampton County, North Carolina. (NCDOT TIP No. R-2582A)

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: Philip S. Harris III, P.E., C.P.M.  
Natural Environment Section Head  
NCDOT – Project Development and Environmental Analysis  
1598 Mail Service Center  
Raleigh, North Carolina  
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)

## Location

Directions to Site: The project area is a 8.2 mile long corridor from I-95/NC 46 in Roanoke Rapids to SR 1312 (St. John Church Road) on NC158 near the town of Garysburg in Northampton County.

Project Area (miles): 8.2

Nearest Town: Garysburg

Nearest Waterway: Roanoke River

River Basin: Roanoke River (03010107)

Latitude and Longitude: Approximate center at 36.468618 N, -77.611234 W

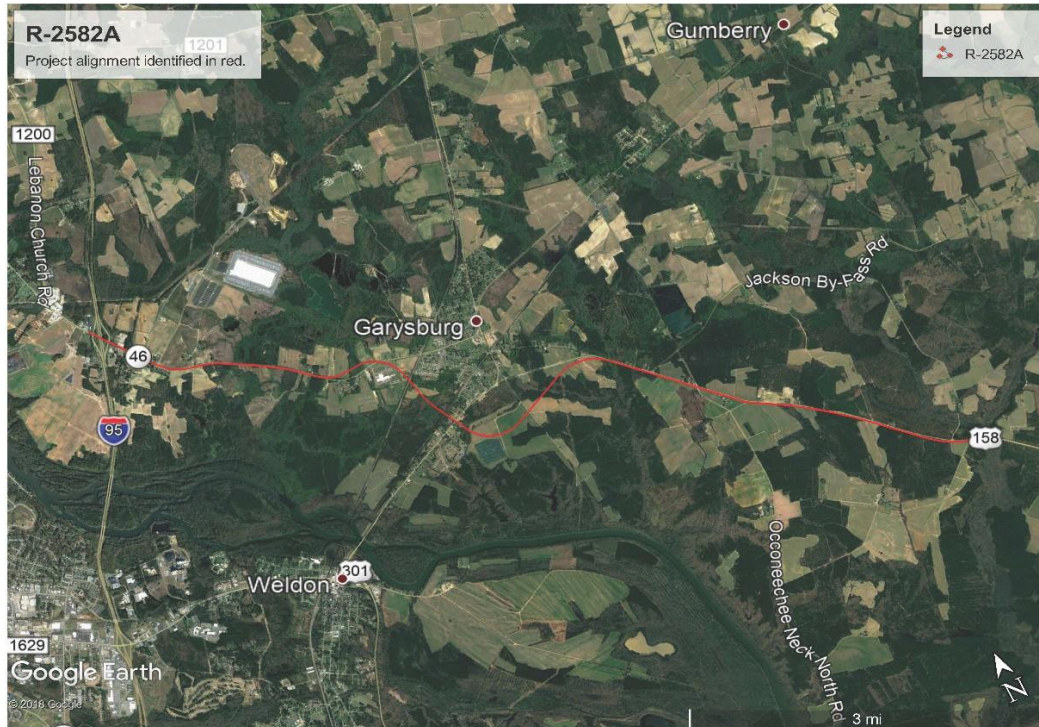


Figure 1

## Existing Site Conditions

The R-2582A project is located entirely in the Roanoke River Basin (Hydrologic Unit 03010107). The project crosses numerous streams, unnamed tributaries, surface waters, and wetlands. Drainages within the R-2582A section are part of the Arthurs Creek and Trouble Field Creek watersheds, which drain southwards to their confluence with the Roanoke River. There are no Outstanding Resource Waters (ORW), High Quality Waters (HQW), WS-I waters, or WS-II waters within 3 miles upstream or downstream of the project study corridors or within the project study area. No stream that flows through the project study corridors is designated as National Wild and Scenic River or a State Natural and Scenic River.

Wetland and stream delineations were primarily performed from September 2005 through May 2006 to prepare the Natural Resources Technical Report (NRTR) finalized in

December 2006. The Corps and the North Carolina Division of Water Resources (NCDWR) field verified wetlands and streams in May, 2006.

An Addendum was prepared to the NRTR in 2011 to cover two additional areas where alignments were shifted. These areas are east of the limits of R-2582A; the impacts for the current project are described in the 2006 NRTR.

Field work was conducted in September 2018 to document any changes needed in the wetland and stream limits along R-2582A. Streams and wetlands were assessed by comparing aerial imagery from 2013 to the most recent aerial imagery. Following the desktop aerial evaluation, a field assessment of streams and wetlands occurred by spot-checking features to determine feature changes (if needed).

### **Applicant's Stated Purpose**

The purpose of the project as stated in the State Record of Decision (ROD) is to improve the traffic flow and Level of Service (LOS) on this section of US 158; thereby improving safety; and to improve access to existing and future industry in this region.

### **Project Description**

The overall US 158 improvement project (TIP's R-2582 & R-2584) is proposed to be a four-lane median-divided freeway, along with associated bridges, interchange ramps, and service roads, designed using NCDOT design standards and design guidelines developed by the American Association of State Highway and Transportation Officials (AASHTO) for freeway facilities. The widening will convert the highway from its current configuration as a two-lane facility to a four-lane, median-divided facility. The proposed facility will have 12-foot lanes, paved shoulders, and a 46-foot grass median. Widened portions, on existing alignment, will have partial control of access, while new location segments will have full control of access. The design speed for the road is 70 mph, which will accommodate posted speed limits of 65 mph.

The location of the R-2582A segment is depicted in Figure 1. The improvement occurs primarily along the existing alignment of US 158 and includes a bypass south of Garysburg, which is partly on new location. Section R-2582A has independent utility, achieving the overall purpose and need by improving conditions along US 158 east of I-95 through Garysburg.

### **Summary of Impacts**

Proposed permanent impacts to jurisdictional areas total 12.66 acres of permanent wetland impacts, 2,426 linear feet of permanent stream impacts, and 0.43 acres of permanent surface water impacts.

## Utility impacts

There will be <0.01 acre of permanent fill and <0.01 acre of temporary fill in wetlands as a result of utility relocations. There will also be 0.22 acre of hand clearing in wetlands due to utilities. Please see the attached utility drawings for more detailed information.

**Table 1. R-2582A Wetland Impacts**

Permit Drawing Site Number	2006 NRTR Label	Type	Permanent Impacts (ac.)	Temporary Impacts (ac.)	Compensatory Mitigation Required*
1	WA01	Riparian	0.38	0	Yes
2	WA03	Non-riparian	0.004	0	Yes
2	WA04 & WA06	Riparian	0.07	0	Yes
3	WA08 & WA09	Non-riparian	0.21	0	No <sup>1</sup>
4	WA07	Riparian	2.38	0	Yes
5	WB01, WB02 & WB03	Non-riparian	3.58	0	Yes
6	WB04	Riparian	3.57 <sup>2</sup>	0	Yes
7	WB06	Riparian	1.35	0	Yes
8	WB08 & WB09	Riparian	0.28	0	Yes
9	WB11	Non-riparian	0.83	0	Yes
10	WB12	Non-riparian	0.0005	0	Yes
11	WB13	Non-riparian	0.01	0	Yes
		<b>Total:</b>	<b>12.66<sup>3</sup></b>	<b>0</b>	

Note: <sup>1</sup> WA08 and WA 09 are isolated wetlands, old gravel pits (2006 NRTR p.45)

<sup>2</sup> Site 6 includes 0.465 acre of impact inside the interchange loop.

<sup>3</sup> Riparian 8.03 ac., Non-riparian 4.63

**Table 2. R-2582A Surface Water Impacts**

<b>Permit Drawing Site Number</b>	<b>2006 NRTR Label</b>	<b>Stream Name</b>	<b>Type Intermittent vs. Perennial</b>	<b>Perm (lf)</b>	<b>Temp (lf)</b>	<b>Perm (ac.)</b>	<b>Temp (ac.)</b>	<b>Mitigation Required</b>
1	SA01	UT to Arthurs Creek	I	101	10	0.01	0.002	No
2	SA02	Arthurs Creek	P	226	35	0.14	0.01	Yes
4	SA04	UT to Arthurs Creek	P	252	21	0.01	0.001	Yes
6	SB01	UT to Trouble Field Creek	I	826	9	0.09	0.001	No
7	SB03	UT to Trouble Field 332Creek	I	480	63	0.04	0.007	No
8	SB05	Trouble Field Creek	P	332	29	0.11	0.005	Yes
12	SB02	UT to Arthurs Creek	I	209	20	0.02	0.002	No
<b>Total:</b>				<b>2,426</b>	<b>187</b>	<b>0.43</b>	<b>0.03</b>	

**Avoidance, Minimization and Mitigation**

The NCDOT is committed to incorporating all reasonable and practicable design features to avoid and minimize jurisdictional impacts, and to provide full compensatory mitigation of all remaining, unavoidable jurisdictional impacts. Avoidance measures were taken during planning and National Environmental Policy Act (NEPA) compliance stages; minimization measures were incorporated as part of the project design. These measures are discussed in Chapter 4 and Appendix F of the State FEIS, and p. 8 of the ROD.

The proposed construction of R-2582A will result in unavoidable impacts to 12.66 acres of permanent wetland impacts, 2,426 linear feet of permanent stream impacts, and 0.43 acres of permanent surface water impacts. The wetland impacts include 4.63 acres of non-riparian wetlands and 7.56 acres of riparian wetlands that will require mitigation. The stream impacts include 810 feet of perennial stream that will require mitigation.

NCDOT has proposed that wetland and stream compensatory mitigation will be provided by the North Carolina Department of Environmental Quality Division of Mitigation

Services (DMS). The wetland and stream impacts are in the 8-digit hydrologic unit 03010107 of the Roanoke River Basin.

## **Cultural Resources**

In the R-2582/R-2584 project area, 520 historic architectural resources have been recorded and evaluated, of which 36 proved to be listed on or eligible for the National Register of Historic Places. Subsequent development of the project design has avoided or minimized its impact on most of the resources of concern. Three of the 36 resources are located in the R-2582A project area. The Oak Grove Baptist Church (NP0431) is located just west of Permit Site 1, the Henry Stephenson House (NP0230) is not within or proximate to any permit site (but within the permit area), and part of Longview (NP0233) is located at Permit Site 11.

Findings of “no adverse effect” established for the Oak Grove Baptist Church and for Longview are contingent upon the use of temporary barrier and erosion control fencing during construction and the eventual installation of post-and-board, control-of-access fencing on both properties, as well as the development and implementation of landscape plans for those parts of the properties directly impacted by the project. A Memorandum of Agreement details the mitigation plan crafted to resolve the “adverse effect” finding established for the Henry Stephenson House. The plan includes the same fencing and landscaping provisions stipulated for the church and Longview properties, and additionally requires full photo-documentation prior to construction. The commitments for historic architectural resources are stated in the 2013 State Record of Decision and 2014 Right of Way Consultation for the R-2582A project.

## **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 (NCNHP). 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 for the following species in Northampton County: Bald eagle, Red-cockaded woodpecker and Atlantic sturgeon.
- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat for: the Northern long-eared bat.
- 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.

Table 5 lists the three federally protected species for Northampton County as of June 17, 2018. The redcockaded woodpecker and bald eagle were discussed in the 2006 NRTR, although the bald eagle is currently delisted from the Endangered Species Act. The bald eagle is protected by the Bald and Golden Eagle Protection Act, and is not subject to Section 7 consultation. The Atlantic sturgeon was listed as an Endangered Species effective July, 2014.

**Table 5. Federally Protected Species in Dare County**

Scientific Name	Common Name	Federal Status	Habit at	USFWS Biological Conclusion
<i>Picoides borealis</i>	Red-cockaded woodpecker	E	Yes	No Effect
<i>Acipenser oxyrinchus</i>	Atlantic sturgeon (Carolina distinct)	E	No	No Effect
<i>Haliaeetus</i>	Bald eagle	n/a	Yes	n/a

E= Endangered; T = Threatened; T(S/A) = Threatened (Similarity of Appearance); EXP = (Experimental Population); MANLAA= May Affect, Not Likely to Adversely Affect; MALAA = May Affect, Likely to Adversely Affect; n/a = Not Applicable.

### **Atlantic sturgeon**

Suitable spawning habitat for the Atlantic sturgeon consisting of flowing water and hard substrate does not exist in the study area. A review of NCNHP records updated January 2019, does not indicate a known Atlantic sturgeon occurrence within 1.0 mile of the study area.

### **Red-cockaded woodpecker**

The 2006 NRTR left the biological conclusion for the red cockaded woodpecker unresolved, although it did identify areas of potential habitat. NCDOT surveyed the R-2582 and R-2584 projects for the red-cockaded woodpecker, and the results of that survey are detailed in an October 2007 report. This effort reached the conclusion of ‘No Effect’ due to the lack of suitable habitat and no evidence of current RCW activity at any of the potentially suitable locations. In September 2018, a consultant reevaluated the potential impacts of R-2582A for potential effects on the red-cockaded woodpecker, including a survey for cavity trees in areas of suitable nesting habitat. The surveys reached the conclusion of No Effect.

### **Northern long-eared bat**

The United States Fish and Wildlife Service (USFWS) has developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the Corps, and NCDOT for the northern long-eared bat (NLEB) in eastern North Carolina. The PBO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. The programmatic determination for NLEB for the NCDOT program is "May Affect, Likely to Adversely Affect." The PBO provides incidental take coverage for NLEB and will ensure compliance with Section 7 of the Endangered Species Act for five years for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Northampton County where R-2582A is located.

### **Bald and Golden Eagle Protection Act (BGPA)**

In the July 9, 2007 Federal Register (72:37346-37372), the bald eagle was declared recovered, and removed (de-listed) from the Federal List of Threatened and Endangered wildlife. This delisting took effect August 8, 2007. After delisting, the Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668d) became the primary law protecting bald eagles. Suitable habitat does exist in the project area. Surveys conducted during preparation of the 2006 NRTR concluded that the proposed project will have no impact on the bald eagle due to the absence of nest sites, communal roost sites, or foraging areas for this species. This conclusion was reevaluated in 2018 for R-2582A and remains No Effect.

An August 2018 review of the NCNHP revealed that an eagle was observed April 27, 2014 near the Roanoke River, just over a mile southwest of the beginning of the project at the interchange between US 158 and I-95. Additional sightings of eagles have been made along the river at a greater distance from the project alignment in 2014 and 2016.

### **Moratoria**

An in-stream construction moratorium, to limit the effects on fishery resources, such as the striped bass, has been requested from February 15 through June 30 (as per National Marine Fisheries Service, USFWS, and North Carolina Wildlife Resources Commission) on the three perennial streams impacted by the project (Sites 2, 4 and 8). These streams are perennial tributaries of the Roanoke River, which is listed as a primary nursery area by the NMFS. This commitment is specified on p. 95 of the FEIS.

### **Essential Fish Habitat**

The project will not impact Essential Fish Habitat afforded protection under the Magnuson-Stevens Act of 1996 (16 U.S.C 1801 et seq.).

### **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 01, 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, 12<sup>th</sup> Floor, 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 shall 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 01, 2019. Comments should be submitted to Mr. Kyle Barnes, U.S. Army Corps of Engineers, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, or by phone at (910) 251-4584.