



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

September 23, 2019

Wilmington Regulatory Field Office
US Army Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403

ATTN: Mr. Brad Shaver
NCDOT Coordinator

Dear Sir:

Subject: Request for Modification to Individual Section 404 and Section 401 Water Quality Certification for the proposed improvements to NC 24, US 421/US 701/SR 1296 (Sunset Avenue) to west of SR 1920 (Moltonville Road) in Sampson County. Federal Aid Project No. STPNHF-F-8-2(17), TIP No. R-2303E. Debit \$570.00 from WBS 34416.

References: Section 404 Individual Permit signed December 20, 2012 (SAW-1992- 03237) for R-2303
Section 401 Water Quality Certification issued September 24, 2012 20120240) for R-2303

The purpose of this letter is to submit the final design and revised impact calculations for modification of the Clean Water Act (CWA) Section 404 Individual Permit (IP) and Section 401 Water Quality Certification for R-2303E. Included in this application package are the following: revised permit drawings, revised roadway plans and utility drawings. A revised DMS Acceptance Letter will be forthcoming.

Permit History

In addition to R-2303E there are five other sections associated with this project. A phased permit was issued in December 2012 where the A section was permitted with final design, Section B was permitted with final design in March 2013 and sections C & D were permitted with final design in July 2013. Section F has been and continues to be permitted with only preliminary design. A permit extension was issued for the R-2303 permit in June 2017. This modification request only updates the final impacts to the R-2303E section of this project.

Mailing Address:
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
5501 BARBADOS BOULEVARD
CASTLE HAYNE, NC 28429-5647

Telephone: (910) 341-2000
Fax: (910) 675-0143
Customer Service: 1-877-368-4968

Website: www.ncdot.gov

Location:
5501 BARBADOS BOULEVARD
CASTLE HAYNE, NC 28429-5647

The revised design does not compromise NCDOT's compliance with the existing permit conditions. The revision has been evaluated for compliance with the avoidance/minimization criteria and complies with all previous issues, including the following:

- Aquatic life passage
- FEMA compliance
- Cultural Resources
- Indirect and Cumulative Effects

Table 1. Project Schedule for R-2303E

Section	Letting Type	Let Date
R-2303E	Traditional	December 2019

Impacts to Jurisdictional Resources

Final wetland impact amounts increased only slightly in the E section from the original application and 4C projected impact numbers. The increase in impacts are mainly associated with additional mechanized clearing for erosion control and constructability requirements. The final stream impacts did increase over what was projected in the original application but are less than what was projected at 4C. The main reason for the changes in the stream impacts was from an updated wetland and stream delineation for all sections. Final design for section E has been updated. We have also added the utility impacts. Impacts to jurisdictional wetlands and surface waters for R-2303E are summarized below in Tables 2 - 8.

Table 2. R-2303E Wetland Impacts

Permit Drawing Site Number (2012)	Map Label in FEIS (2010)	Type	Permanent Impacts (ac.)	Temporary Impacts (ac.)	Mitigation Required ^a
1	248	Riparian	0.098	0.024	Yes
2	250	Riparian	0.769	0.006	Yes
3	251	Riparian	0.124	0	Yes
5	254	Non-Riparian	0.010	0	Yes
6	256	Non-Riparian	0.002	0	Yes
7	247A/247B	Riparian	0.816	0.257	Yes
Total: ^c			1.820 ^b	0.286	

^a For permanent impacts

^b An increase of 0.24 ac. from the original application and 0.05 from 4C.

^c Rounded totals are sum of actual impacts.

Table 5. R-2303E Surface Water Impacts

Permit Drawing Site Number	Waterbody	Permanent (ft)	Temporary (ft)	Permanent (ac.)	Temporary (ac.)	Mitigation Required ^a
a	stream	339	39	0.170	0.016	Yes
2	stream	847 ^d	20	0.200	0.005	Yes
3	stream	200	20	0.040	0.004	Yes
4	stream	99	52	0.019	0.010	Yes
7	stream	234	53	0.079	0.016	Yes
Total: ^b		1,719 ^c	184	0.508	0.051	

^a For permanent impacts

^b An increase of 203 lf. from original application and a decrease of 69 lf. from 4C when excluding bank stabilization.

^c Include 87 lf. of bank stabilization at Site 1 and 93 lf. of bank stabilization at Site 7.

^d 210 lf. of open channel will be constructed inside -Y2LPA- to provide stormwater treatment.

Permanent Impacts: Proposed permanent impacts for R-2303E include fill, excavation, and mechanized clearing in wetlands. This includes impacts to 1.807 acres of riparian wetlands and 0.012 acres of non-riparian wetlands. Proposed permanent impacts to streams are 1,719 linear feet.

Temporary Impacts: There is 0.286 acre of temporary impacts to riparian wetlands for R-2303E. Proposed temporary impacts to surface waters is 184 linear feet.

Utility Impacts: Within R-2303E there will be power, telephone, and water relocations. Only temporary impacts are required for the aerial utility relocation at Site 1 (Hand Clearing 0.002 acres) as shown on permit drawing 2 of 37 and 3 of 37). There are no other impacts associated with the other utility relocations.

Hand Clearing: The hand clearing totals due to the project construction are 0.198 acres.

Table 8. Summary of Wetland and Stream Impacts for R-2303E

Section	Permanent Wetland (ac.)		Temporary Wetland (ac.)		Permanent Stream (lf.)	Temporary Stream (lf.)
	Riparian	Non-riparian	Riparian	Non-riparian		
E	1.807	0.012	0.286	0	1,719	184

Avoidance and Minimization

All jurisdictional features were delineated, field verified and surveyed within the corridor for R-2303. Using these surveyed features, final designs were adjusted to avoid and/or minimize impacts to jurisdictional areas. NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in all its designs. Many of these strategies have been incorporated into BMP documents that have been reviewed and approved by the resource agencies and which will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. Individual avoidance and minimization items are as follows:

- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters.
- The project was designed to avoid or minimize disturbance to aquatic life movements.
- NCDOT and its contractors will not excavate, fill, or perform land clearing activities within Waters of the U.S. or any areas under the jurisdiction of the USACE, except as authorized by the USACE. To ensure that all borrow and waste activities occur on high ground, except as authorized by permit, the NCDOT shall require its contractors to identify all areas to be used to borrow material, or to dispose of dredged, fill or waste material. Documentation of the location and characteristics of all borrow and disposal sites associated with the project will be available to the USACE on request.
- Preformed Scour Holes will be used where practicable.
- Storm water will be treated using grass swales and an infiltration basin.
- NCDOT will implement Best Management Practices for Bridge Demolition and Removal.

- NCDOT will implement Best Management Practices for the Protection of Surface Waters.
- Special Sediment Control Fence will be used where applicable
- Perpendicular stream crossings will be used where possible.
- 3:1 side slopes will be used within the jurisdictional areas.
- Bank stabilization will not place rip-rap in stream bottom and will reduce erosion and sedimentation.

Protected Species

The United States Fish and Wildlife Service (USFWS) list 3 federally protected species for Sampson as of the October 4, 2018 listing (Table 11).

Table 11. Federally Protected Species in Sampson County (R-2303E)

Scientific Name	Common Name	Federal Status	Habitat	Biological Conclusion
<i>Alligator mississippiensis</i>	American alligator	T(S/A)	Yes	N/A
<i>Picoides borealis</i>	Red-cockaded woodpecker	E	No	No Effect
<i>Lindera melissifolia</i>	Pondberry	E	No	No Effect

Key: T(S/A) = Threatened (Similarity of Appearance)

Summary of Mitigation

The proposed construction of R-2303E will impact 1.807 acres of riparian and 0.012 acres of non-riparian wetlands that will require mitigation. The impacts from the R-2303E will be offset by compensatory mitigation provided by the DMS.

Permanent stream impacts (loss of waters) for the R-2303E total 1539 linear feet 1,719 lf of permanent impact minus 180 lf of bank stabilization). The 1,539 linear feet of permanent stream impacts (loss) will be offset by compensatory mitigation provided by the DMS.

Northern Long-eared Bat

The US Fish and Wildlife Service has developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (USACE), and NCDOT for the northern long-eared bat (NLEB) (*Myotis septentrionalis*) 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 Sampson County where R-2303E is located. This level of incidental take is authorized from the effective date of a final listing determination through April 30, 2020.

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. Habitat for the bald eagle is not present due to the lack of large water bodies in the study area.

Regulatory Approvals

Section 404: We are, therefore, requesting the modification of the USACE Individual 404 Permit signed December 20, 2012 (SAW 1992-03237), for the above-described activities. NCDOT will apply for a permit modification when designs are finalized and before construction commences on Sections E and F.

Section 401: We are hereby requesting a modification to the 401 Water Quality Certification from the NCDWQ issued September 24, 2012 (DWQ No.20120240). In compliance with Section 143-215.3D(e) of the NCAC, we will provide \$570.00 to act as payment for processing the Section 401 permit modification.

Thank you for your assistance with this project. If you have any questions or need additional information, please contact Mason Herndon at 910-341-2036 or tmherndon@ncdot.gov.

Sincerely,

For Karen Eason Collette, PE, Division 3 Engineer
North Carolina Department of Transportation

cc:

Kristi Lynn Carpenter, Division of Water Resources
Joanne Steenhuis, Division of Water Resources

Enclosures