



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: May 24, 2021
Comment Deadline: June 23, 2021
Corps Action ID Number: SAW-2021-01091

The Wilmington District, Corps of Engineers (Corps) received information from the North Carolina Department of Transportation (NCDOT) regarding a potential future requirement for Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with replacement of US 64 Tyrrell County Bridge Number 7 (Lindsay C. Warren Bridge) over the Alligator River, Dare and Tyrrell Counties, North Carolina. The project is identified in NCDOT's 2020-2029 State Transportation Improvement Program (STIP) as Project Number HB-0001. It has been assigned the Federal Aid Project Number NHPB-0001(156) by the Federal Highway Administration (FHWA). Right of way acquisition and construction are unfunded and programmed for future years behind the STIP horizon.

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:

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

Applicant: North Carolina Department of Transportation (NCDOT)
Project Management Unit
Attn: John G. Conforti, REM
Senior Project Manager
1582 Mail Service Center
Raleigh, North Carolina 27699-1582

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)

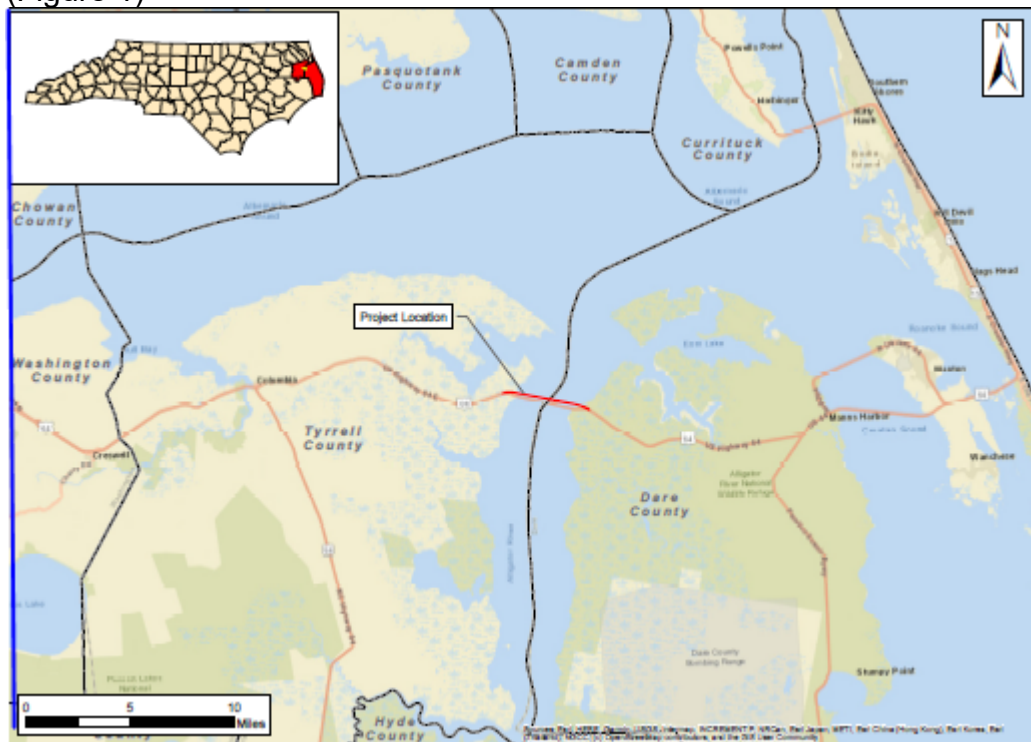
In order to more fully integrate Section 404 permit requirements with the National Environmental Policy Act of 1969, and to give careful consideration to our required public interest review and 404(b)(1) compliance determination, the Corps is soliciting public comment on the merits of this proposal and on the alternatives considered. 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 select the least environmentally damaging practicable alternative (LEDPA). The District Commander is not authorizing construction of the proposed project at this time. A final DA 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

Location Description: The project extends along US 64 from just west of the Alligator River in Tyrrell County to the east, spans the river, and ends just west of East Lake, North Carolina in Dare County. The project boundary for this project (proposed slope stakes plus 25 feet) encompasses the proposed transportation improvements (Figure 1).

Nearest Town: East Lake;	Latitude: 35.900382
Nearest Waterway: Alligator River	Longitude: -76.005901
River Basin: Pasquotank	

(Figure 1)



Existing Site Conditions

Dare and Tyrrell Counties are located within the Coastal Plain Physiographic Region of North Carolina. The existing bridge occurs along US 64 approximately 13 miles east of Columbia, spans the Alligator River, and ends east of the Alligator River near East Lake. The proposed bridge will cross the river just to the north of the existing bridge and tie into existing US 64 on both ends. The project area is rural in nature with a substantial number of protected lands, such as the Alligator River National Wildlife Refuge, the North Carolina Wildlife Resources Commission's (NCWRC) Alligator River Game Land, and property owned and managed by the Conservation Fund. Residential development is sparse in proximity to the project; agricultural lands are present to the east and west of the project, but not within the proposed project footprint. Both Section 404 and Coastal Area Management Act (CAMA) wetlands are present within the project area.

The roadway to be improved as part of the proposed project includes US 64 (Other Principal Arterial). Other Principal Arterials serve major centers of metropolitan areas, provide a high degree of mobility, and can also provide mobility through rural areas. Unlike their access-controlled counterparts, abutting land uses can be served directly. Forms of access for Other Principal Arterial roadways include driveways to specific parcels and at-grade intersections with other roadways. Existing US 64 is a two-lane roadway through the project area.

Applicant's Stated Purpose

The purpose of the proposed project is to replace the existing 2.83-mile-long Lindsay C. Warren Bridge, Tyrrell County Bridge Number 7, carrying US 64 across the Alligator River with a two-lane, high-level, fixed-span bridge.

Project Description

The NCDOT proposes to replace US 64 Tyrrell County Bridge Number 7 (Lindsay C. Warren Bridge) over the Alligator River in Tyrrell and Dare Counties (STIP No. HB-0001). The existing bridge is a two-lane, swing bridge and would be removed as part of the project. The proposed replacement structure would be a modern two-lane, high-level, fixed span bridge providing a vertical navigable clearance of 65 feet. The HB-0001 project proposes a 2-lane roadway and bridge, with 10-foot shoulders (5-foot paved on the approaches) and 8-foot paved shoulders on the bridge. Total project length is approximately 4.64 miles. The project area is variable along the project length, following the proposed slope stakes, plus 25 feet on either side of US 64; the corridor is 50 feet on either side of the proposed bridge.

The project starts in Tyrrell County on US-64, just west of Fort Landing Road (Sta. 662+50). The new bridge alignment diverges from the existing US 64 alignment and passes north of the existing marina/convenience store and crosses the Alligator River to

the north of the existing Lindsay C. Warren Bridge. The project ends in Dare County and ties back into existing US 64 past Old Ferry Landing Road (Sta. 907+60).

The existing Lindsay C. Warren bridge traffic will need to be maintained during construction of the new bridge. Depending on duration of construction, regular maintenance of the existing bridge may need to occur. Marine traffic will also continue using the existing channel, except for the area where replacement will occur in the existing channel, and the swing span bridge would continue to function.

The bridge replacement was previously addressed as part of a previous State of North Carolina (non-federal) Environmental Impact Statement (EIS) Study for the improvement of widening approximately 27 miles of US 64 in Tyrrell and Dare Counties (TIP R-2544/R-2545). The R-2544/2545 project had progressed through the NEPA/404 Merger process and selection of a LEDPA, Concurrence Point 3 (CP 3) was achieved on February 14, 2013 and CP 4A (Avoidance and Minimization) on December 17, 2014. The State environmental review process completed a draft Final Environmental Impact Statement (FEIS) for the project, but the FEIS was not signed, and a Record of Decision was not completed.

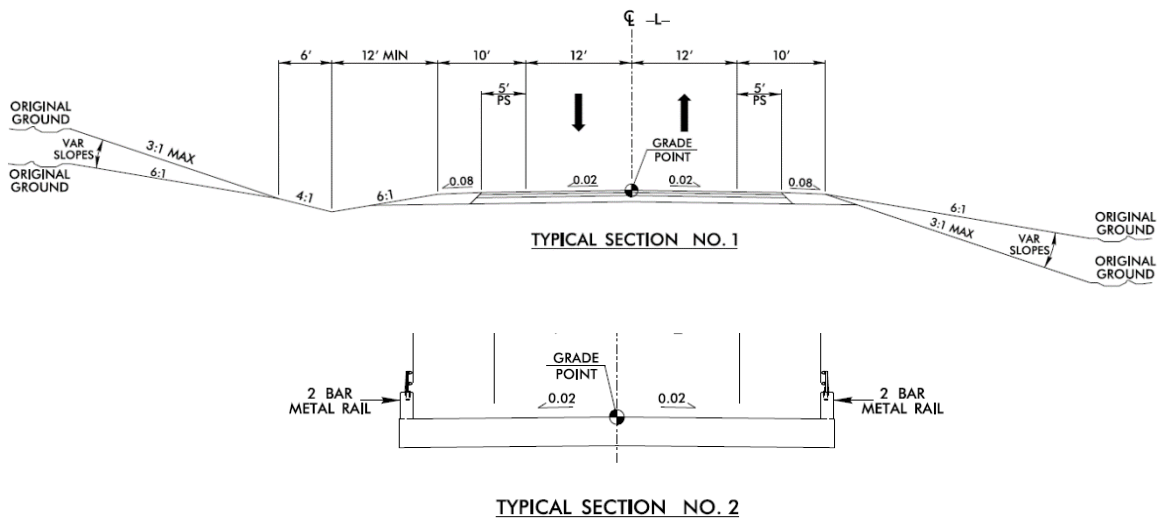
A Merger Screening Meeting was held on January 28, 2021, where it was determined that replacement of the Alligator River bridge, project HB-0001, would proceed through the Merger process as a standalone project. A Concurrence Point 1 (CP 1) meeting was held on March 10, 2021, where the Merger team agreed on the project Purpose and Need and Project Study Area. A CP 2/2A meeting was held on April 21, 2021, where the Alternatives to Carry Forward were determined and Hydraulic Considerations reviewed. The HB-0001 Alternative, carrying US 64 over the Alligator River on a new bridge north of the existing bridge, was the only proposed alignment that the Merger team agreed to carry forward.

HB-0001 is included as an amendment to the 2020-2029 NCDOT State Transportation Improvement Program (STIP) and is programmed for planning and environmental studies only. NCDOT is preparing a federal Categorical Exclusion (CE; Type III) for the project, with FHWA as the lead federal agency.

For the HB-0001 alternative, NCDOT proposes a two-lane, high-level, fixed-span bridge on the previous R 2544/2545 LEDPA centerline. Specifically, the project proposes a 2-lane roadway and bridge, with 10-foot shoulders (5-foot paved on the approaches) and 8-foot paved shoulders on the bridge. The bridge will be approximately 17,031 feet (3.23 miles) long and 40 feet wide.

Proposed costs for this alternative are currently being determined. Requests have been made to the appropriate NCDOT technical units to estimate these costs and information will be available during the 2021 calendar year.

The proposed typical sections for the approaches (Typical Section No. 1) and the bridge deck (Typical Section No. 2), are shown below:



Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Through development of the Detailed Study Alternative preliminary design, NCDOT has attempted to avoid or minimize impacts to the river, surface waters, and wetlands to the greatest practicable extent. However, total avoidance of potential jurisdictional features by the proposed project is not possible. US 64 in the project area crosses through two large wetland systems, one on either side of the river, and wetlands are on both sides of the proposed approach alignment. Additionally, the proposed bridge will cross the river, which is approximately 3.23 miles between approaches. Therefore, impacts to the river itself, although relatively minor and due to placement of bents, are unavoidable since the river cannot be spanned without in-water bents. Best Management Practices (BMPs) for the Protection of Surface Waters will be employed for this project. Additionally, no impacts to the Alligator River National Wildlife Refuge or Alligator River Gameland will occur as part of the preferred alternative. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts, potentially including, but not limited to, optimizing fill slopes on the bridge approaches and Y-line/driveway tie-ins; potentially adjusting the approaches and number of spans in relation to the river to minimize wetland and CAMA impacts; adding a closed stormwater catchment system for the bridge where it extends over land; minimizing or eliminating impacts to CAMA AECs; and minimizing impacts to protected species habitat.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: NCDOT will investigate potential on-site compensatory mitigation opportunities prior to submitting a Section 404 permit application. If on-site mitigation is not feasible, or a sufficient amount of mitigation is not available on-site, mitigation will be provided by the North Carolina Department of Environmental Quality – Division of Mitigation Services (NCDEQ-DMS).

Essential Fish Habitat

The Corps' determination is that the proposed project may adversely affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

- The Corps will consult under the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

No Primary Nursery Areas have been identified within the study area. Anadromous Fish Habitat has been identified within the study area. The Alligator River north of the existing US 64 bridge (30-16- [21.5]) is classified as a coastal AFSA under NC Division of Marine Fisheries jurisdiction. The Alligator River south of the existing US 64 bridge (30-16- [7]) is classified as joint AFSA waters under the jurisdiction of MFC and the NCWRC. Therefore, an in-water moratorium from February 15 – June 30 is anticipated for this project.

The National Marine Fisheries Service (NMFS) has identified the Alligator River as an Essential Fish Habitat (EFH). Table 5 lists the fish species that may occur in the study area that are managed by NMFS, including the life stages which are reported to occur.

Table 5. Managed fish species reported in the Alligator River

Species	Life Stage
Snapper Grouper ¹	Egg, Larva, Juvenile, Adult
Red Drum	Egg, Larva, Juvenile, Adult
Bluefish	Egg, Larva, Juvenile, Adult
Summer Flounder	Larva, Juvenile, Adult
Gag Grouper	Juvenile
Gray Snapper	Juvenile
Spanish Mackerel	Juvenile, Adult
Black Sea Bass	Larva, Juvenile, Adult
Spiny Dogfish	Juvenile, Adult
Brown Shrimp	Egg, Larva, Juvenile, Adult
Pink Shrimp	Egg, Larva, Juvenile, Adult

Table 5. Managed fish species reported in the Alligator River

Species	Life Stage
White Shrimp	Egg, Larva, Juvenile, Adult

¹ – Snapper Grouper listed by NMFS as having EFH within the project area. All other species in Table 3 are listed on the Draft List of Essential Fish Habitat Species by Waterbody in North Carolina (October 1999).

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:

- 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 may affect federally listed endangered or threatened species or their formally designated critical habitat.
- The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

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, June 23, 2021. Comments should be submitted to Kyle Barnes, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, at (910) 251-4584.