



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: August 05, 2022  
Comment Deadline: September 05, 2022  
Corps Action ID Number: SAW- 2018-00748

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation, Division 6, seeking Department of the Army authorization to discharge fill material into waters of the United States associated with the proposed conversion of the US 74/NC 72 and the US 74/NC 130 offset intersections to a single interchange, in Robeson County, North Carolina (TIP R-5751).

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)  
Division 6  
Attn: Gregory Price  
431 Transportation Drive  
Fayetteville, NC 28301

## 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: The area of the US 74 intersections with NC 72 and NC 130.

Nearest Town: Boardman Nearest Waterways: Flowers Swamp and Duck Bait Slough  
River Basin: Lumber (HUC 03040203) Latitude and Longitude: 34.4554 N, -78.9722 W

## Existing Site Conditions

The project area lies within the Coastal Plain physiographic region of North Carolina. The project impact sites are typical upper coastal plain riparian forested wetlands. Topography in the project vicinity is very flat with only a few feet of elevation difference between wetlands and agricultural fields. Land use in the project vicinity consists primarily of forest and agricultural fields, with some rural residences.

## Applicant's Stated Purpose

To improve safety, improve transportation mobility within the project study area, and upgrade US 74 within the project limits to interstate standards.

## Project Description

The project, known as TIP R-5751, would consist of constructing a diamond interchange at US 74/NC 72 southeast of the current intersection with roundabouts east and west of US 74, realigning NC 72 and NC 130 onto a structure over US 74, and upgrading US 74 within the project limits to interstate standards. The Federal Highway Administration is the lead federal agency.

There would be 7.969 acres of permanent wetland impacts associated with this project due to fill, 1.766 acres due to mechanized clearing, and 0.901 acre due to excavation, totaling 10.636 acre of permanent wetland impact. There would also be 0.005 acre of temporary non-404 impacts to wetlands resulting from hand clearing of vegetation. There would be no stream impacts. The impacts are summarized in Table 1 below.

Table 1. Wetland Impacts

Site	Wetland Name <sup>1</sup>	Wetland Size (ac)	Wetland Type	Fill (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Permanent Impacts	Impacts Requiring USACE Mitigation <sup>2</sup> (ac)
1	WE	47.84	Riparian	1.375	0.017	0.416		1.808	1.808
2	WF	15.25	Riparian	0.367		0.247		0.614	0.614
3	WD	109.38	Riparian	6.162	0.884	0.856		7.902	7.902
4	WA	9.09	Riparian			0.005	0.002	0.005	0.005
4	WC	1.33	Riparian				0.003		
5	WP	3.33	Riparian	0.036		0.13		0.166	0.166
6	WS	0.94	Riparian	0.029		0.112		0.141	0.141
<b>Total impacts</b>							<b>0.005</b>	<b>10.636</b>	<b>10.636</b>

<sup>1</sup>Wetland names are from the Natural Resources Technical Report document dated December 2018.

<sup>2</sup>Mitigation ratio for all applicable wetland sites is 2:1.

## Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Minimization includes the examination of appropriate and practicable steps to reduce adverse impacts.

Five different build alternatives were considered in the planning of R-5751.

Alternative 1, a grade separated diamond interchange with stop controls located entirely within the existing right-of way, would impact approximately 26 acres of wetlands.

Alternative 2, a grade-separated diamond interchange with roundabouts located entirely within the existing right-of-way that was obtained in the 1970s, would impact approximately 26 acres of wetland.

Alternative 3, a grade-separated partial cloverleaf interchange located further east than Alternatives 1 and 2, would impact approximately 15 acres of wetland and would have required additional right-of-way.

Alternative 4, a grade-separated diamond interchange with roundabouts located further east than Alternatives 1 and 2, would impact approximately 14 acres of wetland and required additional right-of-way.

Alternative 5 was selected by NCDOT as the recommended design alternative and is similar to Alternative 4. Alternative 5 proposes to convert the existing intersection of US 74 with NC 130/NC 72 to a standard diamond interchange with roundabouts for traffic control. The southern leg of the NC 130 roundabout would shift further east/southeast along from NC 130, saving approximately four acres of wetland impact versus Alternative 4. The eastbound ramp onto US 74 also avoids a small cemetery as shown on the roadway plans. Total wetland impacts for Alternative 5 would be 10.636 acres of permanent impacts, as well as 0.005 acre of temporary impacts.

Listed below are some of the additional avoidance and minimization measures that would be implemented on the project:

- Side slopes would be steepened to 3:1 adjacent to jurisdictional impact areas to minimize impacts to surface waters, except for areas where side slopes are 4:1 due to the addition of a guardrail not being feasible at these locations;
- Steepened fill slopes would be revegetated using NCDOT approved vegetation.
- NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters would be enforced;
- NCDOT's BMPs for Construction and Maintenance Activities would be utilized;
- NCDOT would implement installation, inspection, and maintenance of erosion and sediment control measures;
- Rip rap pads at drainage system outlets would dissipate flow and reduce velocities and erosive potential;
- Rip rap stabilization would be sized appropriately based on flow velocity to ensure long term stability of banks;
- Existing drainage patterns would be maintained to the maximum extent practicable.

## **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: NCDOT proposes that the NC Division of Mitigation Services debit 21.28 acres of wetland mitigation credit (2:1 mitigation ratio) from the Juniper Bay Mitigation Site in Robeson County, for this project.

## **Cultural Resources**

The FHWA is the lead federal agency for compliance with Section 106 of the National Historic Preservation Act (NHPA) for this project.

To facilitate compliance with Section 106, a Programmatic Agreement (PA) was executed between the FHWA, Corps, NC State Historic Preservation Office (NC SHPO), NCDOT, and the Advisory Council on Historic Preservation (ACHP) in 2020 to redefine NCDOT's internal review of transportation projects in North Carolina. Specifically, the PA stipulates the authority of NCDOT's Archaeology and Historic Architecture and Landscapes groups in identifying and evaluating historic properties and assessing effects on historic properties in conjunction with transportation projects. If it is determined that the PA is not appropriate to use for this project, consultation will be performed in the traditional manner.

As detailed below, Section 106 activities for this project (e.g., surveys, assessments, etc.) have been initiated for this project.

### Architectural Resources

An historic architecture survey was required under Section 106 of the National Historic Preservation Act, under the PA. The Historic Structures Survey Report, prepared in June 2019, determined that no eligible resources are present within the Area of Potential Effects (APE). Concurrence was received from the NC SHPO on August 12, 2019.

### Archaeological Resources

A cultural resources review was conducted in April 2019 for the archaeological APE. The NCDOT archaeologist conducted the environmental and historic background research and determined that the current conditions do not indicate a high probability for intact, significant archaeological sites within the APE. The NCDOT archaeologist indicated no archaeology survey is required.

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

The FHWA is the lead federal agency for this project and is the federal agency responsible for making determinations and requesting concurrence with these determinations (if other than a "no effect") from the U.S. Fish and Wildlife Service (USFWS), in accordance with Section 7(a)(2) of the Endangered Species Act (ESA). The following table contains the federally listed threatened and endangered species for Wake County. It also includes the FHWA's determinations of effect to these species that would result from implementation of the applicant's preferred alternative. For a species where the biological conclusion/determination is anything other than "No effect", the FHWA will consult with the USFWS.

The project area was evaluated for potential habitat for federally Threatened (T) or Endangered (E) species known to have ranges extending into Robeson County. As of August 4, 2022, the USFWS Information for Planning and Consulting (IPaC) lists four federally protected species that should be considered in effects analysis for a project in this area (see Table 2). The applicant conducted habitat assessments and/or surveys for these species in 2020 and/or 2021.

Table 2: ESA federally listed species to be considered in effects analysis

Scientific Name	Common Name	Federal Status	Habitat Present	Survey Results	Biological Conclusion
<i>Picoides borealis</i>	Red-cockaded Woodpecker	Endangered	No	N/A	No Effect
<i>Mycteria americana</i>	Wood Stork	Threatened	Yes	Negative	Not Likely to Adversely Affect
<i>Rhus michauxii</i>	Michaux's Sumac	Endangered	Yes	Negative	No Effect
<i>Myotis septentrionalis</i>	Northern long-eared bat	Threatened	NA	*Subject to Programmatic Biological Opinion	Likely to Adversely Affect

No critical habitat was identified within the project area.

The applicant has provided the above information to the United States Fish and Wildlife Service (USFWS).

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 requesting concurrence with the above information from FHWA and/or USFWS and/or additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service, if necessary.

**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. Unless NCDWR is granted a time review extension, a waiver will be deemed to occur if the NCDWR fails to act on this request for certification within 120 days of the date of this public notice. 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 September 05, 2022, 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, Raleigh, North Carolina 27604

**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 05, 2022. Comments should be submitted to Eric Alsmeyer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884, extension 23. Comments may also be submitted to [NCDOT\\_REG@usace.army.mil](mailto:NCDOT_REG@usace.army.mil).