



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: February 18, 2022  
Comment Deadline: March 21, 2022  
Corps Action ID Number: SAW-2019-02118

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NC DOT) seeking a phased Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with the widening of NC 55 from south of SR 1532 (Oak Grove Church Road) to NC 42, and a new location bypass around the Town of Angier to the west, constructed as a four-lane median divided roadway, with partially controlled access throughout the project, in Harnett and Wake Counties, North Carolina. The project is approximately 11.5 miles in length.

The proposed project is state funded, and included in the NC DOT's approved Fiscal Year 2020-2029 North Carolina State Transportation Improvement Program (STIP), project numbers STIP: R-5705. R-5705 has been divided into three sections: R-5705A [NC 55 from south of SR 1532 (Oak Grove Church Road) to north of NC 210], R-5705B [NC 55 from NC 210 to SR 4809 (Jicarilla Lane)], and R-5705C [NC 55 from south of SR 4809 (Jicarilla Lane) to NC 42].

Location information and a description of the project are below. Roadway plans are not attached to this Public Notice; however, they can be viewed at the following website:

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

If you wish to have a paper copy of the plans mailed to you, please contact the individual listed at the end of this Public Notice.

**Applicant:** NC Department of Transportation  
Mr. Phillip S. Harris, III  
Environmental Analysis Unit  
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)

## **Location**

Location Description:

Project Area (acres): ~446 acres/11.5 miles

Nearest Town: Angier/Fuquay Varina

Nearest Waterway: Buies Creek/East Buies Creek/Black Creek

River Basins:03030004/03030006/03020201

Latitude and Longitude: 35.595379- N, --78.758832- W

## **Existing Site Conditions**

The project is located in the Cape Fear and Neuse River Basins, and lies within Hydrologic Units 03030004/03030006/03020201, and within the Piedmont ecoregion. Within the project area, NC 55 is a three-lane facility narrowing to two-lanes south of Angier with a posted speed limit of 35 miles per hour (mph) and 50 mph throughout the study area. NC 55 runs north-south through Wake and Harnett Counties, with residential, commercial, and agricultural land use. The landscape in the surrounding area of the proposed new location portion of the project consists of mainly agricultural and/or forested lands, with some single-family residential homes and a few commercial facilities located adjacent to or within the project corridor. The project crosses Buies Creek, East Buies Creek, Black Creek, as well as several unnamed tributaries, and multiple wetlands.

## **Applicant's Stated Purpose**

The purpose and need for the proposed action is to reduce traffic congestion and improve mobility on the NC 55 corridor in the project area, with a goal of achieving an overall level of service D (LOS D). The primary need for this project is demonstrated by the existing traffic congestion, anticipated future traffic congestion, and poor operating conditions. These conditions are substandard and anticipated to worsen if no action is taken.

## **Project Description**

STIP Project R-5705 to widen NC Highway 55 and construct a new location bypass around the Town of Angier. R-5705 was divided into three sections: R-5705 A [NC 55 from south of SR 1532 (Oak Grove Church Road) to north of NC 210], R-5705B [NC 55 from NC 210 to SR 4809 (Jicarilla Lane)], and R-5705C [NC 55 from south of SR 4809 (Jicarilla Lane) to NC 42, south of Five Points]. The proposed project is listed in the approved 2020-2029 State Transportation Improvement Program (STIP) as Project Number R-5705, and is state funded. Therefore, the Corps is lead federal agency for the evaluation of this proposal.

Proposed impacts associated with R-5705 A and B are based on final design, while proposed impacts associated with R-5705 C are based on preliminary design (slope

stakes plus 25-feet). Proposed permanent impacts (fill, excavation, mechanized land clearing, and bank stabilization) to aquatic resources associated with the overall project total 18.73 acres wetland and 5,811 linear feet of stream channel. Proposed permanent open water impacts total 8.9-acre. Potential impacts associated with utility relocations of section A are included within these impact amounts. Temporary impacts associated with construction activities for R-5705 A and B total 4.02-acre wetland and 852 linear feet of stream channel. Proposed permanent aquatic resource impacts and project schedule are broken out by section in the table below:

<b>Section</b>	<b>Wetland impacts (acres)</b>	<b>Stream Impacts (linear feet)</b>	<b>Open Water Impacts (acres)</b>	<b>Scheduled Let Date</b>
<b>R-5705 A (Final Design)</b>	6.87-ac	1,916 lf	6.79-ac	October 2022
<b>R-5705 B (Final Design)</b>	6.11-ac	2,293 lf	2.11-ac	October 2022
<b>R-5705 C (Preliminary Design)</b>	5.75-ac	1,602 lf	--	Post Year

Approximately 110-150 feet of right-of-way will be required along the existing alignment and approximately 150-200 feet of right-of-way will be required on new location to accommodate the multi-lane facility. Partial control of access is proposed throughout the project.

### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: All jurisdictional features were delineated, field verified and surveyed within the project study area for R-5705. Using these features, preliminary designs were adjusted to avoid and/or minimize impacts to jurisdictional resources, where possible. NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in its designs. Many of these strategies have been incorporated into Best Management Practice documents that have been reviewed and approved by the resource agencies and which will be followed throughout construction. For those impacts to jurisdictional streams and wetlands that cannot be avoided in their entirety, minimization efforts were utilized throughout the planning and design process. These are listed below:

- Design Standards in Sensitive Watersheds will be implemented for R-5705C.
- Considering environmental, hydraulic, and roadway perspectives, 3: 1 slopes are proposed within the wetlands, where practical.
- Hand clearing is proposed at wetland locations where feasible.
- Some pipes outlets were moved to outlet right before wetlands to avoid impacts.
- Exclusion of driveways/ driveway fill from access points that are in wetlands areas.

- Rip rap pads are used at the outlet of open pipes.
- No staging of construction equipment or storage of construction supplies in jurisdictional wetlands or streams.
- NCDOT and its contractors will not fill or perform land clearing activities within jurisdictional wetlands, buffers, streams, or any areas under the jurisdiction of the USA CE, except as authorized by the USACE and NCDWR.
- Borrow and waste activities will occur outside of jurisdictional features.
- Vegetated conveyances are used throughout the project.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The Department states that they will acquire the compensatory mitigation for these unavoidable impacts from the North Carolina Department of Environmental Quality (NCDEQ)-Division of Mitigation Services (DMS) for the project. Acceptance letters from the NC DMS was provided with the application for R-5705 A and R-5705 B. The applicant proposes to offset unavoidable impacts to Waters of the U.S. with compensatory mitigation provided by the NCDEQ DMS at ratios of 2:1 for wetland and perennial stream impacts, 1:1 for intermittent stream impacts. There will be no mitigation required for permanent impacts to streams impacted by bank stabilization. A final mitigation plan was not provided for aquatic resource impacts associated with R-5705 C, however, the applicant states that upon completion of final roadway plan design, a final mitigation plan would be provided with a future permit modification request. The applicant anticipates obtaining credits through NC DMS.

### **Essential Fish Habitat**

The Corps' determination is that the proposed project would not effect 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:

- 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).

## 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 US Fish and Wildlife Service (USFWS) 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 was updated November 6, 2020 and will ensure compliance with Section 7 of the Endangered Species Act for 10 years (until December 31, 2030) for all NCDOT projects with federal nexus in Divisions 1-8, which includes this project.

Additionally, suitable habit exists within the project study area for the following species:

Scientific Name	Common Name	Federal Status	Biological conclusion
<i>Fusconaia masoni</i>	Atlantic pigtoe	T	MA-NLAA
<i>Haliaeetus leucocephalus</i>	Bald Eagle	BGPA	No Effect
<i>Lysimachia asperulaefolia</i>	Rough-leafed loostrife	E	No Effect
<i>Notropis mekistocholas</i>	Cape Fear shiner	E	MA-NLAA
<i>Picoides borealis</i>	Red cockaded woodpecker	E	No Effect
<i>Rhus michauxii</i>	Michaux’s sumac	E	No Effect

The effects determinations for the above species are based on field survey results conducted by NC DOT in August and September of 2021, and NCDOT’s Aquatic Species Survey report dated December 20, 2021. The project study area does not contain suitable habitat for the Carolina Madtom (*Noturus furiosus*) or the Neuse River Waterdog (*Necturus lewiski*), therefore, the proposed project would not affect these species.

## **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 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. 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). 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 sixty days of the date of this public notice. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, 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 March 11, 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

### **North Carolina Division of Coastal Management (NCDWM):**

- 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, March 21, 2022. Comments should be submitted to Ms. Liz Hair at email address: sarah.e.hair@usace.army.mil, telephone: 910-251-4049, or hard copy submitted to Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 .