



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: August 16, 2022
Comment Deadline: September 16, 2022
Corps Action ID Number: SAW- 2021-00799

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 the improving US 74 from W. Main Street Bridge in Mooresboro, NC to the Interchange with Peachtree Road (Exit 193), and replacing Bridge Nos. 48 and 49 on US 74, in Cleveland County, NC. The projects are identified in NCDOT's 2020-2029 State Transportation Improvement Program (STIP) as Project Numbers R-4045 and BR-0012. Right of way acquisition and construction are scheduled for Summer 2023 and Fall 2023, respectively.

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), Div. 12
Attn: Bryan Sowell
1710 E. Marion St
Shelby, North Carolina 28151

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)

Public Meeting

NCDOT will hold a public meeting to answer questions and receive comments about this project. A Corps of Engineers representative will be at the meeting.

Date: Thursday, August 25, 2022
Time: 4:00 – 7:00 p.m.
Location: Mooresboro Community Center
306 W. Main Street
Mooresboro, NC

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: US 74 from W. Main Street Bridge in Mooresboro, NC to the Interchange with Peachtree Road (Exit 193), and Bridge Nos. 48 and 49 on US 74, in Mooresboro, NC

Nearest Town: Mooresboro

Nearest Waterways: Sandy Run Creek

River Basin: Broad River (HUC 03050105)

Latitude and Longitude: West end: 35.302 N, -81.704 W; East end: 35.297 N, -81.677 W.

Existing Site Conditions

Cleveland County is located within the piedmont physiographic region of North Carolina. The western end of the project is in Mooresboro while the eastern end connects with the Shelby Bypass (Exit 193, Peachtree Road).

Topography in the project vicinity is characterized by rolling hills. Land use in the project vicinity consists of mixed forestland, agriculture, commercial, and residential. A church and community center are located just to the south of US 74.

US 74 is a four-lane roadway, generally traverses the area in an east/west direction. The roadway is classified by NCDOT as freeway. This portion of US 74 is currently the only uncontrolled access between Kings Mountain, N.C. and Columbus, N.C. Several driveways and roads intersect with US 74 along this corridor. The major road intersections

are Ellenboro Road, Lattimore Road and East Main Street. A single abandoned railroad track, owned by Norfolk Southern Railroad, crosses over US 74 on a bridge near the middle of the project corridor.

Sandy Run Creek is the main waterway crossing through the project corridor near the east end of the project. A system of unnamed tributaries cross US 74 at several locations in the corridor connecting to one main unnamed tributary that feeds into Sandy Run Creek.

Applicant's Stated Purpose

The purpose of the R-4045/BR-0012 project is to provide a consistent facility to meet drivers' expectations for the US 74 corridor (from Kings Mountain to Columbus, NC) by upgrading this portion of US 74 to meet NCDOT freeway standards.

Project Description

NCDOT proposes improve U.S. 74 from Mooresboro to the Shelby Bypass in Cleveland County, a distance of approximately 1.2 miles. The projects are included in the 2020-2029 State Transportation Improvement Program (STIP) and is federally funded.

The proposed work would include closing driveways and intersections within the project limits on U.S. 74 and putting an interchange in place of the current intersection of U.S. 74 and Academy Street/Lattimore Road. It also includes service roads to restore access to homes and property, and the replacement of the U.S. 74 bridges over Sandy Run Creek.

Detailed Study Alternatives (DSA)

At the May 19, 2022, Concurrence Point 2 (Detailed Study Alternatives) NEPA/Section 404 Merger Team meeting, concurrence was reached to close all access along the 1.2 miles section of US 74, to replace the bridges over Sandy Run Creek and to study four interchange alternatives at the intersection of US 74 with Lattimore Road and Academy Street, and service roads at three different locations.

Interchange Alternatives

Alternative 1

Alternative 1 as shown in Figures 2A and 2B, the southern half of the interchange will have an on ramp and off ramp connecting at a roundabout. In the NW Quadrant, Ellenboro Rd will connect with Latimore. In the NE Quadrant, A loop will provide access onto U.S. 74 and an off ramp, Ramp A, will allow traffic from U.S. 74 to Latimore Road. A bridge would be constructed over U.S. 74 to connect Latimore Road with Academy Street.

Alternative 1A

Alternative 1A as shown in Figures 2A and 2B is the same as Alternative 1 except that it uses steeper slopes on all ramps and a bridge on Ramp A instead of a culvert to

minimize impacts to the stream in the northern half of the interchange. Ramp A is also slightly longer to allow a better alignment for the bridge to cross the stream.

Alternative 2

This alternative as shown in Figures 2C and 2D, would have an on ramp and off ramp connecting at a roundabout in the southern half of the interchange. In the NW Quadrant, both Ellenboro Rd and an on ramp will connect with another traffic circle. In the NE Quadrant, a ramp will provide access from U.S. 74 to Lattimore Road. A bridge would be constructed over U.S. 74 to connect Lattimore Road with Academy Street.

Alternative 2A

Alternative 2A as shown in Figures 2C and 2D is the same as Alternate 2 except that it uses steeper slopes on all ramps and a bridge on Ramp A instead of a culvert to minimize impacts to the stream in the northern half of the interchange. Ramp A is also slightly longer to allow a better alignment for the bridge.

Potential impacts to Waters of the United States and other resources are listed in Table 1. These estimates were calculated using preliminary roadway design slope stake limits plus an additional 25 feet. The location of each impact is shown on the plans identified as Figure 2A through 2D.

Table 1. Anticipated Impacts of US 74 Construction Alternatives

Resource	Alt 1	Alt 1A	Alt 2	Alt 2A
Human Environment				
Residential Relocations	10	10	10	10
Business Relocations	2	2	2	2
Environmental Justice (low income or minority communities)	Impacts to minority and low-income populations do not appear to be disproportionately high and adverse. Benefits and burdens resulting from the project are anticipated to be equitably distributed throughout the community.			
Cultural Resources	There are three historic sites and one historic district within the area. All four of the primary construction alternatives avoid impact to the historic resources. The service road impacts are described in the next section.			
Farmland Soils	27.77 acres	31.42 acres	23.57 acres	30.07 acres
Natural Environment				
Stream Crossings (number)	13	13	12	12
Streams Impacts (linear feet)	2257	1518	1978	1435
Ponds (acres)	0	0	0	0
Wetlands (acres)	0.27	0.08	0.36	0.26
Federally Protected Species	There are two listed threatened species for the project area. The Northern long-eared bat (NLEB) and the Dwarf flowered heartleaf (DFH) both have a determination of may affect, not likely to adversely affect for this project. The NLEB is under consideration for changing its status to endangered. If this occurs, the project will be reevaluated to address the new status.			

Service Roads

Because of the closures along U.S. 74, service roads are being studied at three different locations to determine where it makes sense to restore access to homes and property.

Near Redbird Lane

Three residences are located near on the northwest corner of the bridges over Sandy Run Creek currently have a driveway access to U.S. 74 that would be closed as part of project improvements. Two of the three would be taken by work on U.S. 74 but one could potentially remain. With closing the driveway, to restore access would require building a service road from Redbud Lane utilizing a bridge over Sandy Run Creek. (see Figure 2B or Figure 2D)

Near E. Main Street

Seven Mobile Homes currently have a driveway access to U.S. 74 that would be closed as part of project improvements. Restoring access would require a service road constructed from E. Main Street. (see Figure 2B , 2C, or 2D)

Near Church and Duncan Road

Duncan Road and the church have driveway access to U.S. 74 that would be closed as part of project improvements. Duncan Road serves nine residences, and the church has a residence connected to it as well. To maintain access would require construction of a service road. There are three options being considered:

Option 1: (see Figure 2A or Figure 2C) A service road would be built following the existing dirt pathway connecting the church to Main Street. A T-Intersecting service road would connect Duncan Road, the church and the properties between the church and Academy Street. The intersection of Academy Street with Main Street would be improved to better accommodate increased truck traffic from the grading business.

Option 2: (see Figure 2E) A service road would be built connecting to Main Street 850 feet east of Burrus Road connecting to Duncan Road. A T-Intersecting service road would connect to the church and the properties immediately west of the church. The intersection of Academy Street with Main Street would be improved to better accommodate increased truck traffic from the grading business.

Option 3: (see Figure 2F) This option would connect a service road from Academy Street, beside the church and Duncan Road to the grading company.

Based on these service road options, potential impacts to Waters of the United States and other resources are listed in Table 2 below. NCDOT calculated these estimates using preliminary roadway design slope stake limits plus an additional 25 feet. The location of each impact is shown on the plans identified as Figure 2A through 2F.

Table 2. Anticipated Impacts of Service Roads Comparison

Resource	Church and Duncan Road				
	Near Redbud Land	Near East Main Street	Option 1	Option 2	Option 3
Human Environment					
Residential Relocations	9	9	9	9	
Business Relocations	0	0	0	0	
Environmental Justice (low income or minority communities)	Impacts to minority and low-income populations do not appear to be disproportionately high and adverse. Benefits and burdens resulting from the project are anticipated to be equitably distributed throughout the community.				
Cultural Resources	No Effect on Any Historic Resources	No Effect on Any Historic Resources	No Adverse Effect to Mooresboro Historic District	No Adverse Effect to Mooresboro Historic District	No Effect on Any Historic Resources
Farmland Soils (acres)	1.6	2.82	7.49	8.07	6.57
Natural Environment					
Stream Crossings (number)	0	0	0	0	1
Streams Impacts (linear feet)	0	0	0	0	250
Ponds (acres)	0	0	0	0	0
Wetlands (acres)	0	0	0	0	0.05
Federally Protected Species	There are two listed threatened species for the project area. The Northern long-eared bat (NLEB) and the Dwarf flowered heartleaf (DFH) both have a determination of may affect, not likely to adversely affect for this project. The NLEB is under consideration for changing its status to endangered. If this occurs, the project will be reevaluated to address the new status.				

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 preliminary designs of the Build alternative, NCDOT has attempted to avoid or minimize impacts to streams and wetlands to the greatest practicable extent. This included developing alignments for the Build alternative, and associated interchange, bridge, and service road alignments crossing I-85, that avoided these resources as much as possible, while also minimizing impacts to other resources. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts for the selected alternative. Jurisdictional determinations will be made once a LEDPA has been agreed on.

Compensatory Mitigation

The applicant offered the following preliminary compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: NCDOT will investigate potential on-site compensatory mitigation opportunities for whichever alternative is selected as the

LEDPA. If on-site compensatory mitigation is not feasible, or if a sufficient amount of mitigation is not available on-site, mitigation will be provided by the NC Division of Mitigation Services (NCDMS). All permanent losses of waters of the U.S. would be mitigated at a 2:1 compensatory mitigation ratio unless NCDOT provides justification for a lower ratio by submitting NC Stream Assessment Worksheets (for streams) or NC Wetland Assessment Worksheets (for wetlands).

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:

Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).

Architectural Resources

There are three properties near the project footprint considered eligible for the National Register of Historic Places including: Will McBrayer Farm, Flora Burrus House and Mooresboro Historic District.

On July 28, 2022, NCDOT held an Effects Meeting and SHPO concurred on an Historic Architecture and Landscapes Assessment of Effects Form. All alternatives and service roads being considered were determined to have "No Effect" on the Will McBrayer Farm. Alternates 1, 1A, 2 and 2A with Service Road Options 1 and 2 were determined to have a "No Adverse Effect" on the Mooresboro Historic District and Flora Burrus House. Alternates 1, 1A, 2 and 2A with Service Road Option 3 has "No Effect on the Mooresboro Historic District.

Archaeological Resources

NCDOT finalized a *No National Register of Historic Places Eligible or Listed Archaeological Sites Present Form* on February 28, 2022.

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. Pursuant to the Endangered Species Act of 1973, the Corps is relying on the NCDOT review of the project area, and has examined all information provided by the applicant, and consulted the latest North Carolina Heritage Database.

As of August 7, 2022, the United States Fish and Wildlife Service (USFWS) lists two federally protected species under the Endangered Species Act (ESA) in the study area vicinity (Table 2). For each species, a discussion of the presence or absence of habitat is included below along with the Biological Conclusion rendered based on survey results in the study area.

Table 3. Federally protected species listed for the study area via IPaC

Scientific Name	Common Name	Federal Status ¹	Habitat Present	Biological Conclusion
<i>Hexastylis naniflora</i>	Dwarf-flowered heartleaf	T	Yes	MA-NLAA
<i>Myotis septentrionalis</i>	Northern long-eared bat	T	Undetermined	MA-NLAA

T – Threatened

Dwarf-flowered heartleaf

Biological Conclusion: May Affect, Not Likely to Adversely Effect

Suitable occupied habitat for dwarf-flowered heartleaf (*Hexastylis naniflora*) is present within the action area. Biologists performed a field survey in May 2021 and observed 283 plants on the north facing slopes along Stream SC in mixed hardwood forest. The moist soils and semi-open canopy provide habitat for this species. There is another population located about 300 feet outside of the action area along Stream SB and Wetland WA; no impacts are expected.

The dwarf-flowered heartleaf population located along Stream SC occurs within several feet of the banks of Stream SC, which is classified as a high-quality stream. The population is also located within a few dozen feet of the 48-inch culvert that carries Stream SC under US 74. Due to the upsizing of the culvert, the stream is expected to remain stable and susceptibility to stream blockages should be reduced. If a service road is built across Stream SC (Figure 2), it will be placed about 430 feet upstream from the current dwarf-flowered heartleaf population and would be designed to have no effect on stream flow. Based on the proposed conservation measures which should minimize any impact to the dwarf-flowered heartleaf populations, the U.S. Fish and Wildlife Service concurs with the NCDOT's determination that the project may affect but is not likely to adversely affect the species.

Northern long-eared bat

Biological Conclusion: May Affect – Not Likely to Adversely Affect

Review of the NCNHP records, updated January 2021, indicates no known northern long-eared bat occurrences within 1.0 mile of the study area. Due to no known

hibernacula or maternity roosts and the lack of known populations, this project has met the criteria for the 4(d) rule and no further action is required.

Compliance with the requirements of ESA Section 7 consultation must be completed prior to issuance of any authorization to impact waters of the U.S.

Evaluation

The decision whether to issue a permit or verification letter for the use of a general 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, September 16, 2022. Comments should be submitted to Eric Alsmeyer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, telephone (919) 554-4884, extension 23. Comments may also be submitted to NCDOT_REG@usace.army.mil