



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: September 21, 2023  
Comment Deadline: October 21, 2023  
Corps Action ID #: SAW-2004-9986803  
STIP Project No. I-2513

The Wilmington District, U.S. Army Corps of Engineers (Corps) has received an application from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge fill material into waters of the United States associated with the construction of the I-26 Asheville Connector Project (STIP No. I-2513) in Buncombe County, North Carolina. The proposed project is approximately 7 miles in length and would connect I-26 in southwestern Asheville to US 19-23-70 in northwest Asheville.

Specific project and location information is described below and shown on the attached figures. This public notice and attachments are also available on the Wilmington District Web Site at <http://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Construction plans are not attached to this public notice due to the large number of pages; however, all construction plans can be found on the Wilmington District's web site at <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>. The plans are also available on NCDOT's website at <https://xfer.services.ncdot.gov/pdea/I-2513/>

If you wish to obtain or view a paper copy of this public notice and/or the plans, please contact the individual identified at the end of this notice.

The Federal Highway Administration (FHWA) is the lead federal agency for this project. The FHWA's Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for this project are available on the NCDOT website at (<https://xfer.services.ncdot.gov/pdea/I-2513/>) Links to specific documents and information are provided throughout this public notice.

**Applicant:** North Carolina Department of Transportation  
Environmental Coordination and Permitting  
Mr. Michael A. Turchy, Group Leader  
1598 Mail Service Center  
Raleigh, North Carolina 27699-1598

## Authority

The Corps will evaluate this application and decide 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

Nearest Town: Asheville  
Nearest Waterway: French Broad River  
River Basin: French Broad  
Latitude and Longitude: 35.5671, -82.5878

The proposed project (STIP I-2513) is located in Asheville, Buncombe County, North Carolina, and is commonly referred to as the I-26 Connector (**Figure 1**). The I-26 Connector project would connect I-26 from I-40 in southwestern Asheville to US 19-23-70 in northwest Asheville and have a total length of approximately 7 miles.

## Existing Site Conditions

The City of Asheville is located in Buncombe County within the Blue Ridge Mountains of western North Carolina. This area is characterized by relatively rugged topography, including rolling hills, high mountain peaks, and occasional alluvial plains. A large portion of the land within the study area is developed, with residential and commercial areas located along existing I-240 and US 19-23-70.

The project study area is contained within the French Broad River Basin, which is located west of the Eastern Continental Divide, and lies within the French Broad River sub-basin, approximately 54 miles downstream of the headwaters of the French Broad. Water resources in the study area are part of the French Broad River Basin (U.S. Geological Survey [USGS] Hydrologic Unit 06010105). Named rivers and streams in the project area include the French Broad River, Lower Hominy Creek, Upper Hominy Creek, Moore Branch, Reed Creek, Smith Mill Creek, Ragsdale Creek, Trent Branch, and unnamed tributaries to these waters.

The existing major roads in the study area consist of 4-lane divided and 6-lane divided roads. As shown in **Figures 1 and 2**, I-40 is a major east-west interstate facility and is

the principal highway access to the Asheville area from the east and west and is located to the south of the Asheville central business district. I-240 is a semicircular east-west urban interstate facility that provides a freeway loop through downtown Asheville, spanning the French Broad River, and connecting with I-40 to the east and west of town. At the I-240 interchange with US 19-23, east of the French Broad River, US 70 joins US 19-23 to the north. Here, I-240 and US 74A join US 19-23 from the north and Patton Avenue from the east, where they all continue west across the river as Patton Avenue on the Captain Jeff Bowen Bridges. US 19-23-74A (Patton Avenue) splits off from I-240 at the Patton Avenue interchange west of the French Broad River. I-240 and US 19-23 Business continue south to the US 19-23 Business/SR 3458 (Haywood Road) interchange, where US 19-23 Business exits and follows Haywood Road to the west. I-240 continues southwestward through the SR 3556 (Amboy Road) and NC 191 (Brevard Road) interchanges and terminates at I-40.

### **Applicant's Stated Need and Purpose**

➤ Applicant's stated need:

This project is needed to address traffic capacity problems along the existing I-240 corridor (future I-26), across the Captain Jeff Bowen Bridges to US 19-23-70. Presently numerous areas do not meet interstate design standards and cannot be designated I-26 without being improved. The project would improve traffic flow, address substandard roadway features, and provide an interstate roadway through West Asheville for the I-26 Corridor.

➤ Applicant's stated purpose:

The primary purposes of the proposed project are to:

- Upgrade the Interstate corridor from I-26 south of Asheville through the US 19-23 interchange to meet design standards for the Interstate system;
- Provide a link in the transportation system connecting a direct, multi-lane freeway facility meeting interstate standards from the Port of Charleston, South Carolina, to I-81 near Kingsport, Tennessee;
- Improve the capacity of existing I-240 west of Asheville to accommodate the existing and forecasted traffic in this growing area;
- Reduce traffic delays and congestion along the I-240 crossing of the French Broad River, which currently operates at capacity; and
- Increase the remaining useful service of the existing Captain Jeff Bowen

Bridges by substantially reducing the volume of traffic on this vital crossing of the French Broad River.

## **Project Description**

The proposed project, STIP I-2513, is an interstate freeway project that would connect I-26 in southwestern Asheville to US 19-23-70 in northwest Asheville and have a total length of approximately 7 miles. The proposed project would extend I-26 from I-40 to US 19-23-70 and would allow for the eventual designation of I-26 from Charleston, South Carolina, to Johnson City, Tennessee, once a remaining section from the north end of this project to Mars Hill, North Carolina, is completed. The proposed project would upgrade and widen I-240 from I-40 to Patton Avenue and then cross the French Broad River as a new freeway to US 19-23-70 slightly south of the Broadway Street interchange.

The FEIS for this project was completed in January 2020 and the ROD was finalized in May 2023. The FEIS and ROD can be found at <https://xfer.services.ncdot.gov/pdea/I-2513/>

In 2022, NCDOT initiated a FEIS Reevaluation, which is appended to the ROD (Appendix A). The FEIS Reevaluation identified and assessed changes that occurred after publication of the FEIS in January 2020. This document can be found at <https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%202023-05-23%20FEIS%20Reevaluation.pdf>

After publication of the FEIS in 2020, the project section boundaries for I-2513 were revised to better align construction phasing and let dates and are now defined in four sections: Sections A, B, C, and D (**Figures 7 and 8**); prior to that, the sections were designated (from west to east) as Sections C, A, and B.

## **Construction Phasing**

The I-2513 project is funded in phases; the first phase consists of Sections AA, AB, and AC (Phase 1). The phases and proposed date for construction letting for a particular phase/section are listed below:

- I-2513 AA: I-40 from east of SR 1224 (Monte Vista Rd.) to pavement joint west of SR 3412 (Sand Hill Rd.). Let: November 21, 2023 – **Final Design – Phase 1**
- I-2513 AB: I-26, I-40 at I-26/I-40, and I-40/US 19/23 (Smoky Park Highway) Interchanges. Construct the following Improvements: Widen I-40 Eastbound to I-26 Eastbound ramp, Widen I-26 Westbound between I-40 ramps, Construct new I-40 Westbound to US 19/23 (Smoky Park Highway) Northbound ramp. Let: November 21, 2023 – **Final Design – Phase 1**

- I-2513 AC: Roadway Improvements on the I-26/I-40/I-240 Interchange starting just west of the I-26/Bear Creek Rd Intersection to SR 3548 (Haywood Rd). Let: February 24, 2022 - **Final Design – Phase 1**
- I-2513 B&D: SR 3548 (Haywood Rd) to SR 1781 (Broadway St). Design-Build Let: October 17, 2023 – **Preliminary Design-** Design Build.
- I-2513 C: Widening and improvements to the I-40/I-26/I-440 interchanges and approaches. Design-Build Let: FY 2029 – **Preliminary Design-** Design Build.

**Figures 2-8** depict the phases of the I-2513 project.

#### Section 404/NEPA Merger Process

This project has undergone interagency review through the Section 404/National Environmental Policy Act (NEPA) Merger Process. This process engages federal and state agencies throughout project development.

Sections 1-2513 AA, AB, and AC (Phase 1) have completed the Merger Process.

Section 1-2513 B, C, and D (the subsequent section/phases) have not yet completed the Merger Process, but have been processed through Concurrence Point (CP) 4A.

Because this is a phased permit, any initial authorization (permit) that the Corps may issue for this project would authorize work in waters of the U.S. in Phase 1 only. Authorization for subsequent phases/sections would only be issued by the Corps once NCDOT completes final design on that subsequent phase/section, the subsequent phase/section is processed successfully through Merger 4B and 4C, and the Corps has approved a final compensatory mitigation plan for that subsequent phase/section.

As part of the Merger Process, the Corps issued a Merger Public Notice prior to CP 3 (selection of the Least Environmentally Damaging Practicable Alternative); this public notice was issued on October 28, 2015.

Based on the final design for Phase 1, 1,780 linear feet (lf) of stream and 1.11 acre of wetland would be permanently impacted for this phase and 395 lf of stream would be temporarily impacted. Note that 124 lf of the permanent stream impact for Phase 1 would be for bank stabilization; this type of impact is not considered a loss.

Construction of the entire 7 mile-long project would require the following impacts to waters of the US for all sections:

## **Summary of Proposed Impacts to Waters of the U.S. by Section:**

### Sections I-2513 AA, AB & AC (Phase 1 - final design stage):

- 1.11 acres wetland impact
- 1,780 lf permanent stream impact (124 lf is bank stabilization)
- 395 lf temporary stream impact

### Section I-2513 C (preliminary design stage):

- 0.07 acre wetland impacts
- 1,685 lf permanent stream impact (918 lf is bank stabilization)
- 331 lf temporary stream impact

### Section I-2513 B & D (preliminary design stage):

- 0.04 acre wetland impact
- 2,960 lf permanent stream impact (694 lf is bank stabilization)
- 626 lf temporary stream impact

The French Broad River would be impacted for bridge construction and/or replacement at multiple locations, as noted below. Impacts at these locations would include temporary causeways/work pads for construction, demolition, and bank stabilization. Additionally, bridge rehabilitation work would occur on the existing Captain Jeff Bowen Bridges but no causeways/workpads are anticipated for this rehabilitation work.

- A new bridge carrying I-26, with two additional flyover bridges, just downstream of the existing Patton Avenue Bridge (Section D) – 3 bridges
- Replacement/ widening of the existing I-40 bridges (Section C) – 2 bridges
- Existing Captain Jeff Bowen Bridges to US 19-23-70 to be modified/ rehabilitated (Section D) – 2 bridges. No in-water work is anticipated.

As noted in Section 3.5 of NCDOT's Bridge Construction and Demolition Document (<https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%20Bridge%20Construction%20Document%20230914.pdf>), the total area anticipated to be covered by causeways in all Waters of the US for new bridge construction and bridge replacements is 235,125 square feet, of which 234,300 square feet would be in the French Broad River. For reference, the Bridge Construction and Demolition Document contains numerous figures that depict proposed locations for the crossings.

Because the French Broad River, Hominy Creek, and Smith Mill Creek are regularly used for recreation, they cannot be closed for the life of construction. NCDOT would provide a safe passage lane for users of the French Broad River, Hominy Creek, and Smith Mill Creek. Additionally, NCDOT would employ safety measures, including catchment devices on overhead structures to prevent material from falling on river users and floating navigational aids to guide river users to the safe passage lane and away from the causeways/construction zone. Certain activities, such as setting girders, would require temporary river closure to ensure the safety of river users. Most of these activities are anticipated to occur at night when working with existing bridges. For new bridges, most work is expected to take place during the day. NCDOT has developed a Strategic Communication and River User Safety Plan for construction of the project, (<https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%20River%20User%20Communication%20Plan%20230911.pdf>) . NCDOT and its contractors would work with river users, businesses, and recreational river and civic groups to ensure public notification of hazards and temporary closures during construction.

As noted in the May 2023 ROD (<https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%202023-05-26%20Record%20of%20Decision.pdf>), the preliminary designs of the Preferred Alternative (proposed project), as presented in the 2020 FEIS, were refined based on coordination with environmental and regulatory resource agencies, local officials, and affected communities. The resulting impacts from the design modifications include an overall reduced highway footprint, overall reduction in residential relocations, minimized community impacts, enhanced bicycle and pedestrian accommodations, and enhanced safety.

In addition to the refinements noted above, NCDOT incorporated the following avoidance and minimization measures during project design:

- BMPs were used throughout the project for stormwater treatment and to minimize erosion.
- Drainage has been designed so that outlets discharging into wetlands have non-erosive velocities to minimize disturbance to the wetlands.
- 2:1 side slopes have been used throughout the project in order to minimize impacts in areas with wetlands and streams.
- Box culverts in the project area that convey jurisdictional streams have been buried a minimum of 1 foot and circular culverts have been buried 20% of their diameter so that they provide aquatic passage where applicable.

- Grassed shoulders and ditches with vegetated liners were used throughout the project where possible.
- Existing flow patterns and outfalls were maintained to the maximum extent practical to limit discharge increases to any particular area.
- Energy Dissipator Basins were added at the outlets of Permit Sites 4 and 5 (I-2513 AA & AB). The basins would reduce the discharge velocity and minimize the stream degradation that is currently occurring under the existing conditions.
- The following Stormwater control and treatment features would be installed on I-2513 AA & AB: (2) Filtration basins at Station 30+85 LT I. For I-2513 AC: Filtration basin at Y2B 16+40 RT – Dry detention basin at Y8 19+60 LT

### **Compensatory Mitigation**

The purpose of compensatory mitigation is to offset functional losses to the aquatic environment that result from unavoidable impacts to waters of the US.

For this project, NCDOT proposes to provide compensatory mitigation through credits obtained from the NC Division of Mitigation Services (NCDMS) at a 2:1 ratio for all permanent losses of stream and wetland functions.

### **Essential Fish Habitat**

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' initial determination is that the proposed project would not affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

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

As noted in the Reevaluation Document (<https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%202023-05-23%20FEIS%20Reevaluation.pdf>), pursuant to 36 CFR 800.6, FHWA, NCDOT, State Historic Preservation Office and various consulting parties participated in the consultation process and concurred on effects determinations and stipulations addressed in the Memorandum of Agreement (MOA), which was signed in January 2021. The FHWA determined that the proposed project would have an adverse effect on the Riverside Cemetery and archaeological site 31BN826, and a no adverse

effect on the Freeman House, William Worley House, West Asheville/Aycock School Historic District, Great Smoky Mountain Park Bridge (Buncombe County Bridge No. 323), and archaeological site 31BN623, provided that the environmental commitments stipulated in the MOA are fulfilled. The proposed project would have no effect on the remaining historic properties identified in or near the area of potential effects.

The FHWA consulted with and invited the Eastern Band of Cherokee Indians, the United Keetoowah Band of Cherokee Indians, the Cherokee Nation, the Catawba Indian Nation, and the Muscogee (Creek) Nation to concur with the MOA for this project.

#### Section 4(f) of the Department of Transportation Act of 1966

As noted in the ROD (<https://xfer.services.ncdot.gov/pdea/I-2513/I-2513%202023-05-26%20Record%20of%20Decision.pdf>), based upon the final evaluation, five historic properties, one archaeological site, and two park and recreation areas that qualify for protection under Section 4(f) of the Department of Transportation Act of 1966 will require some permanent incorporation of Section 4(f) protected land into the project; however, FHWA has determined they will be de minimis impacts. The properties are as follows:

- Asheville School
- West Asheville/Aycock School Historic District
- William Worley House
- Haywood Street United Methodist Church
- Great Smoky Mountain Park Bridge (Buncombe County Bridge No. 323)
- Archaeological site (31BN623)
- Carrier Park
- French Broad River paddle trail

#### **Endangered Species**

The FHWA is the lead federal agency for this project. In compliance with Section 7(2)a of the Endangered Species Act (ESA), the FHWA is currently consulting with the US Fish and Wildlife Service (USFWS) for project effects to federally-listed species. The table below contains FHWA's determinations of effect for the federally-listed species that could be affected by the proposed project:

**Table 5 – Federally protected species listed for Project Footprint**

Scientific Name	Common Name	Federal Status	Habitat	Proposed Biological Conclusion	Last Survey Date
<i>Glyptemys muhlenbergii</i>	Bog turtle	T (S/A)	No	Not Subject	n/a

<i>Alasmodonta raveneliana</i>	Appalachian Elktoe	E	Yes	MALTAA	2017
<i>Sarracenia rubra ssp. jonesii</i>	Mountain Sweet Pitcher-plant	E	No	No Effect	n/a
<i>Gymnoderma lineare</i>	Rock gnome lichen	E	No	No Effect	n/a
<i>Myotis septentrionalis</i>	Northern long-eared bat	E	Yes	MALTAA	2018
<i>Myotis grisescens</i>	Gray bat	E	Yes	MALTAA	2018
<i>Perimyotis subflavus</i>	Tricolored Bat	P	Yes	MALTAA	2018/2019

**T (S/A):** Threatened for Similarity of Appearance

**T:** Threatened

**E:** Endangered

**P:** Proposed

**MALTAA:** May Affect; Likely to Adversely Affect

The USFWS issued a Biological Opinion for effects to the Gray bat and Appalachian elktoe on June 19, 2020. On July 24, 2023, NCDOT, for the FHWA submitted an Amended Biological Assessment to the USFWS to address effects to the Northern long-eared bat and Tricolored bat; as such, consultation under Section 7(a)2 of the ESA is on-going for this project. No Department of the Army permit may be issued until this consultation has been completed.

### 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 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 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, 401 and Buffer 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 October 21, 2023, 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 (NCDCM):**

Based upon all available information, the Corps has determined that this application for a Department of Army 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 shall 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, October 21, 2023. Comments should be submitted to Lori Beckwith, Regulatory Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006 or by email at [Loretta.A.Beckwith@usace.army.mil](mailto:Loretta.A.Beckwith@usace.army.mil) or by phone at (828) 230-0483.