



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: February 15, 2023
Comment Deadline: March 15, 2023
Corps Action ID Number: SAW-2018-00393
TIP No. U-6003

The Wilmington District, Corps of Engineers (Corps) received an application on February 3, 2023 from North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization for the impact to 0.01 acres of wetland from placement of permanent fill, the permanent impact to 1,103 linear feet of stream and the temporary impact of 304 linear feet of stream associated with the construction of a new 2-lane, median divided roadway on new alignment, approximately 1.0 mile in length. This project is located from the intersection of Piney Grove Road (SR 1969) and Linville Springs Road (SR 2030) to a location on NC 105 (North Main Street near the intersection of NC 105 and Macy Grove Road Extension in Kernersville, Forsyth County, North Carolina.

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, Division 9
Attn: Amy Euliss
375 Silas Creek Parkway
Winston-Salem, NC 27127-7167

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:

This project is located from the intersection of Piney Grove Road (SR 1969) and Linville Springs Road (SR 2030) to a location on NC 105 (North Main Street) near the intersection of NC 105 and Macy Grove Road Extension in Kernersville, Forsyth County, North Carolina.

Nearest Town: Kernersville

Nearest Waterway: East Belevs Creek River Basin: 03010103 Roanoke River Basin

Latitude and Longitude: 36.136581 N, -80.059596 W

Existing Site Conditions

The project is in an area that includes residential developments, undeveloped forested areas and agricultural fields northeast of Kernersville. This project and all jurisdictional features area are in the Roanoke River Basin (United States Geological Survey (USGS) Hydrologic Unit 03010103). All streams within the project area (except for East Belevs Creek) are unnamed tributaries of East Belevs Creek. The North Carolina Division of Water Quality Stream Index for East Belevs Creek is 22-27-8-(1). Unnamed tributaries have the stream index 4 number of their receiving water. Therefore, all the UTs to East Belevs Creek have a stream index number of 22-27-8-(1). There were no High-Quality Waters (HQW), Outstanding Resource Waters (ORW), WS-II, or WS-1 waters within 1.0 miles of the project area.

Applicant's Stated Purpose

The application indicates that the current roadway network to downtown Kernersville consists of several primary north-south facilities with little east-west connectivity. This lack of connectivity limits mobility in downtown Kernersville and the surrounding area.

NCDOT has determined that the intersection of SR 2030 (Linville Springs Road) at Piney Grove Road is projected to have a failing Level of Service (LOS) in 2040 AM & PM peak hours without any improvements. The existing capacity of the adjacent two-lane highways, NC 150 and Piney Grove Road will be overwhelmed by growing demands as development, as indicated by the traffic forecast, occurs along NC 150 in the project area.

The applicant's stated purpose is to provide east-west connectivity between Piney Grove Road and NC 150, and to improve the operations of the intersection of Linville Springs Road at Piney Grove Road. With the proposed connectivity provided, this project serves as a stand-alone improvement that does not require additional facility upgrades.

Project Description

The project will include the impact to 0.01 acres of wetland from placement of permanent fill, the permanent impact to 1,103 linear feet of stream and the temporary impact of 304 linear feet of stream channel associated with the construction of a new 2-lane, median divided roadway (typical median width is 23 foot wide with a reduced median width of 5.5 feet at the jurisdictional crossings) on new alignment, approximately 1.0 mile in length. This roadway between Piney Grove Road and NC 150 will provide east-west connectivity between these roadways and will improve the operations of the intersection of Linville Springs Road at Piney Grove Road. With the proposed connectivity provided, this project serves as a stand-alone improvement that does not require additional facility upgrades.

Avoidance and Minimization

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

In addition to optimization of both the horizontal and vertical alignments, the proposed design includes the following measures in order to further minimize impacts.

- Slopes steepened to 2:1 where possible.
- 23-foot median reduced to 5.5-feet at each stream crossing.
- Box culverts at sites 3 and 5 are buried 1' below the stream bed and 1' sills and baffles will be installed in the culvert. Native bed material or class I rip rap will be placed in the culvert between the baffles and/or sills. This will aide in aquatic passage and reduce the likelihood of stream instability up and downstream of the culvert.

Both bridge and box culvert options at East Belews Creek were considered during design development. Based on both hydraulic and preliminary structure analyses, a bridge would require raising the proposed profile to accommodate bridge girders. While this would reduce impacts at the main crossing, it would increase impacts to surrounding tributaries and likely result in increased right-of-way impacts. Therefore, a culvert is proposed at the crossing of East Belews Creek.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

The applicant has proposed to utilize the North Carolina Division of Mitigation Services (DMS) to provide compensatory mitigation for U-6003. Based upon a summary of the impacts in the permit application, this project will have the total mitigation needs of 906 linear feet of stream impacts. In a letter dated January 23, 2023, DMS agreed to provide mitigation for impacts to 906 linear feet of streams. NCDOT proposes that 574 linear

feet of stream impacts be provided at a 2:1 ratio and 332 linear feet of stream impacts be provided at a 1:1 ratio (Stream SA). NCDOT has provided a functional assessment for stream SA as documentation for the reduced ratio.

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).

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, not likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.

On June 16, 2022, the United States Fish and Wildlife Service (USFWS) issued a concurrence letter which concluded consultation for Schweinitz's sunflower (*Helianthus schweinitzii*) and northern long eared bat (*Myotis septentrionalis*) with a may affect, not likely to adversely affect determination.

While this consultation also determined that this project was not likely to jeopardize the continued existence of the tricolored bat (*Perimyotis subflavus*), the USFWS did not conclude that conservation measures would minimize all adverse effects from the project on tricolored bats. As a result, NCDOT

requested a conference opinion for tricolored bat as this project was likely to be ongoing after the effective date of final listing for tricolored bat, if one occurs.

A Conference Opinion issued to the Corps on January 4, 2023, from the USFWS that included a determination that this project is not likely to jeopardize the continued existence of the tricolored bat (proposed endangered). The USFWS indicates that, *“The prohibitions against taking the species found in Section 9 of the Endangered Species Act do not apply until the species is listed. However, the Service advises USACE to consider implementing the following reasonable and prudent measures. If this Opinion is adopted as a biological opinion following a listing, these measures, with their implementing terms and conditions, will be binding conditions of any grant or permit issued, as appropriate, for the exemption in sections 7(o)(2) to apply.”* This Conference Opinion also includes reasonable and prudent measures, terms and conditions and conservation recommendations that the Corps will incorporate into a Corps authorization or permit.

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, 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 March 7, 2023 to 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 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 15, 2023. Comments should be submitted to Stephen Brumagin, Charlotte Regulatory Field Office, 8340 University Executive Park Drive, Charlotte, NC 28262 or at (704) 510-0162. Comments may also be submitted to stephen.a.brumagin@usace.army.mil.