



PUBLIC NOTICE

**US Army Corps
Of Engineers**
Wilmington District

Issue Date: July 21, 2023
Comment Deadline: August 21, 2023
Corps Action ID Number: SAW-2021-01091

The Wilmington District, Corps of Engineers (Corps) received an application on July 12, 2023 from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to replace the Lindsay C. Warren Bridge (Tyrrell County Bridge No. 7) on U.S. 64 over the Alligator River portion of the Atlantic Intracoastal Waterway, associated with transportation improvements in Tyrrell 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: Michael Turchy
NCDOT
1589 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)
- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Location

Location Description: The project extends along US 64 from just west of the Alligator River in Tyrrell County to the east, spans the river, and ends just west of East Lake, North Carolina in Dare County.

Project Area (acres): 4.25 miles
Nearest Town: Columbia, North Carolina
Nearest Waterway: Alligator River/Atlantic Intracoastal Waterway
River Basin: Pasquotank
Latitude and Longitude: 35.900382N, -76.005901W

Existing Site Conditions

Dare and Tyrrell Counties are located within the Coastal Plain Physiographic Region of North Carolina. The existing bridge occurs along US 64 approximately 13 miles east of Columbia, spans the Alligator River, and ends east of the Alligator River near East Lake. The proposed bridge will cross the river just to the north of the existing bridge and tie into existing US 64 on both ends. Existing US 64 is a two-lane roadway through the project area. The project area is rural in nature with a substantial number of protected lands, such as the Alligator River National Wildlife Refuge, the North Carolina Wildlife Resources Commission's (NCWRC) Alligator River Game Land, and property owned and managed by the Conservation Fund. Residential development is sparse in proximity to the project; agricultural lands are present to the east and west of the project, but not within the proposed project footprint. Both Section 404 and Coastal Area Management Act (CAMA) wetlands are present within the project area.

Applicant's Stated Purpose

The purpose of the project is to replace the existing 2.83-mile-long Lindsay C. Warren Bridge (Tyrrell County Bridge Number 7), carrying US 64 across the Alligator River/Atlantic Intracoastal Waterway, with a two-lane, high-level, fixed-span bridge. The existing bridge was constructed in 1960 and is classified as structurally deficient with a 31.71 rating of a possible 100.

Project Description

The NCDOT proposes to replace US 64 Tyrrell County Bridge Number 7 (Lindsay C. Warren Bridge) over the Alligator River in Tyrrell and Dare Counties (STIP No. HB-0001). The existing bridge, otherwise known the Lindsey G. Warren Bridge, is a two-lane, swing bridge and would be removed as part of the project. The proposed replacement structure would be a modern two-lane, high-level, fixed span bridge providing a vertical navigable clearance of 65 feet. The HB-0001 project proposes a 2-lane roadway and bridge, with 10-foot shoulders (5-foot paved on the approaches) and 8-foot paved shoulders on the bridge. Total project length is approximately 4.64 miles. The project area is variable along the project length, following the proposed slope stakes, plus 25 feet on either side of US 64; the corridor is 50 feet on either side of the proposed bridge.

The project starts in Tyrrell County on US-64, just west of Fort Landing Road (Sta. 662+50). The new bridge alignment diverges from the existing US 64 alignment and passes north of the existing marina/convenience store and crosses the Alligator River to

the north of the existing Lindsay C. Warren Bridge. The project ends in Dare County and ties back into existing US 64 past Old Ferry Landing Road (Sta. 907+60).

The existing Lindsay C. Warren bridge traffic will need to be maintained during construction of the new bridge. Depending on duration of construction, regular maintenance of the existing bridge may need to occur. Marine traffic will also continue using the existing channel, except for the area where replacement will occur in the existing channel, and the swing span bridge would continue to function.

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 Detailed Study Alternative preliminary design, NCDOT has attempted to avoid or minimize impacts to the river, surface waters, and wetlands to the greatest practicable extent. However, total avoidance of potential jurisdictional features by the proposed project is not possible. US 64 in the project area crosses through two large wetland systems, one on either side of the river, and wetlands are on both sides of the proposed approach alignment. Additionally, the proposed bridge will cross the river, which is approximately 3.23 miles between approaches. Therefore, impacts to the river itself, although relatively minor and due to placement of bents, are unavoidable since the river cannot be spanned without in-water bents. Best Management Practices (BMPs) for the Protection of Surface Waters will be employed for this project. Additionally, no impacts to the Alligator River National Wildlife Refuge or Alligator River Gameland will occur as part of the preferred alternative.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Compensatory mitigation for unavoidable impacts to Section 404 and Section 404/CAMA wetlands will be provided through a combination of mitigation credits provided by the North Carolina Department of Environmental Quality (NCDEQ) – DMS and on-site mitigation designed by NCDOT.

Essential Fish Habitat (EFH)

The Corps' determination is that the proposed project may adversely affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

The Corps has initiated consultation the Magnuson-Stevens Act and will not make a permit decision until the consultation process is complete.

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 (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places), are present within the Corps' permit area; moreover, the undertaking may have an adverse effect on these historic properties. The Corps subsequently initiates consultation with the SHPO and/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:

For the proposed project, the Corps has made the following determination for federally listed endangered or threatened species or their formally designated critical habitat: May Affect, Likely to Adversely Affect

The Corps will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.

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 should do so in writing, within 30 days of the issue date of the notice by emailing comments to publiccomments@deq.nc.gov with the subject line of "401 Water Quality Certification" or by mail to:

NCDWR Central Office
Attention: Amy Chapman, Transportation Permitting Branch
(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):

The application did not include a certification that the proposed work complies with and would be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2 (b)(2) the Corps cannot issue a Department of Army (DA) permit for the proposed work until the applicant submits such a certification to the Corps and the NCDWM, and the NCDWM notifies the Corps that it concurs with the applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt, concurrence or objection from the NCDWM.

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, August 21, 2023. Comments should be submitted to Kyle Barnes, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, or via email at kyle.w.barnes@usace.army.mil. The Corps Project Manager can be contacted at (910) -251-4584. Comments may also be submitted to NCDOT_REG@usace.army.mil.