



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, WILMINGTON DISTRICT  
WILMINGTON REGULATORY OFFICE  
69 DARLINGTON AVENUE  
WILMINGTON NORTH CAROLINA 28403

June 11, 2024

Regulatory Division/Program

## PUBLIC NOTICE/JOINT PUBLIC NOTICE

### Permit Application No. SAW-2021-01689

TO WHOM IT MAY CONCERN: The Wilmington District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

**APPLICANT:** Heather Montague  
NC Department of Transportation, Division 5  
2612 N. Duke Street  
Durham, NC 27704

**WATERWAY AND LOCATION:** The project would affect waters of the United States associated with Terrible Creek and its tributaries. The project site is located along a 1.8-mile segment of US 401, from the US 401/Umstead Road intersection to approximately 1,500 feet southwest of the US 401/Dwight Rowland Road intersection; at Latitude 35.620807 and Longitude -78.729011; in Fuquay Varina, Wake County, North Carolina.

#### PROJECT PURPOSE:

**Basic:** To improve road transportation efficiency.

**Overall (Applicant's Stated Purpose):** To reduce congestion and improve mobility along this segment of US 401 and the surrounding area.

**PROPOSED WORK:** TIP HL-0006: The applicant requests authorization to reconfigure multiple intersections along a segment of US 401 (N Main Street) into reduced conflict intersections (RCI), as shown on the attached map. These intersections include SR 1393/SR 2752/SR 2751 (Hilltop Needmore Road/Air Park Road/Hilltop Road), SR 1375 (Lake Wheeler Road), and SR 2753 (Dwight Rowland Road). The project also plans to realign SR 2571 (Hilltop Road) on new location away from the existing five-way intersection with SR 1393 (Hilltop Needmore Road) and align the roadway across from SR 1375 (Lake Wheeler Road) at US 401 (N Main Street). The proposed construction would impact a total of 0.560 acre of wetlands (0.041-acre temporary impacts; 0.519 acre permanent impacts), a total of 2,828 linear feet of tributaries (2,538 linear feet

permanent impacts, 290 linear feet temporary impacts), and would permanently drain a 0.07 acre pond.

The Corps of Engineers will be the lead Federal agency for this project.

Detailed construction plans are not attached to this Public Notice due to the large number of pages. However, electronic copies of this Public Notice and the construction plans can be found at:

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

If you wish to have a paper copy of this Public Notice and/or the construction plans, please contact the individual identified at the end of this Notice.

**EXISTING CONDITIONS:** The project area includes wooded land, residential areas, Hilltop Church and Christian School, and commercial properties.

**AVOIDANCE AND MINIMIZATION:** The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: NCDOT employed multiple strategies to avoid and minimize impacts to jurisdictional areas in its design for this project. Preliminary designs were adjusted to avoid and/or minimize impacts to jurisdictional features. In particular, multiple alignments and stormwater discharge scenarios were considered for the realignment of SR 2571 (Hilltop Road) on new location.

**COMPENSATORY MITIGATION:** The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: Payment into three commercial mitigation banks is proposed for stream and wetland impacts (EBX Buffalo Branch stream and Howell Woods wetland mitigation sites in Johnston County, and Wildlands Holding Falling Creek stream mitigation site in Wayne County). Note total permanent wetland impact includes excavation, mechanized clearing, and fill in wetlands. A final Mitigation Plan will be provided by the applicant prior to a permit decision.

**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:

Cultural resources that have been determined not eligible for inclusion in the National Register of Historic Places are present within the Corps' permit area; therefore, there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from 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:** The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Southeast Regional Office Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

**Table 1:** ESA-listed species and/or critical habitat potentially present in the action area.

<b>Species Common Name and/or Critical Habitat Name</b>	<b>Scientific Name</b>	<b>Federal Status</b>
Neuse River Waterdog	<i>Necturus lewisi</i>	May affect, not likely to adversely affect
Carolina Madtom	<i>Noturus furiosus</i>	May affect, not likely to adversely affect
Dwarf Wedgemussel	<i>Alasmidonta heterodon</i>	May affect, not likely to adversely affect
Atlantic Pigtoe	<i>Fusconaia masoni</i>	May affect, not likely to adversely affect
Yellow Lance	<i>Lasmigona subviridis</i>	May affect, not likely to adversely affect

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted in accordance with 50 CFR part 402.

This notice serves as request to U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

**NAVIGATION:** The proposed structure or activity is not located in the vicinity of a federal navigation channel.

**SECTION 408:** The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

**WATER QUALITY CERTIFICATION:** Water Quality Certification may be required from the NC Department of Environmental Quality, Division of Water Resources.

**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 180 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](mailto:publiccomments@deq.nc.gov) with the subject line of "401 Water Quality Certification" or by mail to: NCDWR Central Office Attention: Susan Locklear, Transportation Permitting Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617.

**North Carolina Division of Coastal Management (NCDQM):**

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).

**NOTE:** This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has been verified by Corps personnel.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact 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 benefits, 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

**COMMENTS:** The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Wilmington District will receive written comments on the proposed work, as outlined above, until **July 11, 2024**. Comments should be submitted to Eric Alsmeyer at [eric.c.alsmeyer@usace.army.mil](mailto:eric.c.alsmeyer@usace.army.mil). Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Wilmington District, Attention: Eric Alsmeyer, 3331 Heritage Trade Drive Suite 105 Wake Forest, NC 27587. Please refer to the permit application number in your comments.

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.