



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: January 11, 2017
Comment Deadline: February 13, 2017
Corps Action ID Number: SAW-2007-01386

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT) seeking Department of the Army authorization to discharge dredged or fill material into waters and wetlands in Hydrologic Unit Code (HUC) 03020202 (White Oak River Basin) and HUC 03030007 (Cape Fear River Basin), associated with Transportation Improvement Projects (TIP) Nos. U4751 (Military Cutoff Extension) and R-3300 (Hampstead Bypass) in New Hanover and Pender Counties, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice, original applications, and all attached plans are also available on the Wilmington District Web Site at

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

Applicant: Mr. Philip S. Harris III
Natural Environment Section
1548 Mail Service Center
Raleigh, NC 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)
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Location

Directions to Site: The project area spans two counties beginning within New Hanover County at the existing terminus of Military Cut Off Road and extending north and east near Ogden Park before intersecting with I-140 near Old Plantation Road (TIP No. U-

4751). From this intersecting point the project continues east northeast crossing Sidbury Road, NC 210 and Hoover Road before ending back into NC 17 before the Holly Shelter Game lands and Lodge Road (TIP No. R-3300), Pender County.

Project Area (miles): 22.2

Nearest Town: Hampstead

Nearest Waterway: Multiple unnamed tributaries to Spring Branch, Smith Creek, Howe Creek, Island Creek, Mill Creek, Harrisons Creek, Old Topsail Creek, Godfrey Creek, and Trumpeter Swamp

River Basin: Cape Fear and White Oak

Latitude and Longitude: centrally located at 34.3361 N, -77.7883 W

Existing Site Conditions

The majority of the land use within the project area is Forestland with the exception being where the project crosses several existing roadways and the area surrounding Ogden Park and surrounding neighborhoods in varies states of development.

Detailed information regarding the Human Environment, Physical Environment, and Natural Environment has been discussed in detail within the National Environmental Policy Act (NEPA) documentation. A link to this information is below.

Applicant's Stated Purpose

The applicant's purpose as stated in the State Record of Decision (SROD) is to improve the traffic carrying capacity and safety of the US 17 and Market Street corridor in the study area.

Background

This project progressed through Part 1500 of the Council of Environmental Quality Regulations for implementing NEPA. A Notice of Intent was published in the federal register on April 30, 2010 and the Draft Environmental Impact Statement (EIS) was signed on July 28, 2011. A supplemental Draft EIS was executed on September 27, 2013 and the Final EIS was signed by the Corps and NCDOT on July 25, 2014. The Sate Record of Decision (ROD) was issued by NCDOT in September of 2014.

This permit application serves as the next step for the Corps to prepare a Federal ROD, for the completion of NEPA, which will further be used as the Corps' decision document to issue, issue with conditions, or deny the permit for the subject project.

All of the aforementioned documents can be viewed at:

<https://www.ncdot.gov/projects/US17HampsteadBypass/>

Merger Process

This project additionally has progressed through a collaborative process which includes multiple Resource and other integral Regulatory Agencies known in the State of North Carolina as the Merger Process. This group of agencies reviewed key points in the project development and agreed to milestones relative to their Agency responsibilities. The Merger process agreed to the following milestones:

- **Purpose and Need (9/21/2006)**
- **Detailed Study Alternatives (8/23/2007)**
- **Least Environmentally Damaging Practicable Alternative (U-4751, 6/6/2012 R-3300, 5/17/2012)**
- **Avoidance and Minimization (U-4751, 8/8/2012 R-3300, 6/16/2016)**

Project Schedule:

U-4751 & R-3300, for planning purposes, were combined to evaluate them from a system-wide perspective. Considering them together allowed for a more comprehensive evaluation of direct and indirect impacts of the larger system. Currently, U-4751 is scheduled to let October 17, 2017 and R-3300 is currently not funded for construction in the 2016-2025 STIP. Permit drawings for the proposed U-4751 have been completed and preliminary estimates, based on preliminary slope stakes plus 25 feet have been calculated for R-3300. The NCDOT will apply for any relevant permit modifications for R-3300 when final design is complete. Construction will not commence on R-3300 until permit modifications have been received based on final design.

Project Description

The proposed action involves construction of SR 1409 (Military Cutoff Road) Extension in New Hanover County and the US 17 Hampstead Bypass in New Hanover and Pender Counties. Military Cutoff Road Extension will be constructed as a six-lane divided roadway on new location from its current terminus at US 17 Business (Market Street) in Wilmington north to an interchange with the US 17 Wilmington Bypass (John Jay Burney Jr. Freeway). Limited and full control of access are proposed. The US 17 Hampstead Bypass will be constructed as a freeway mostly on new location. The US 17 Hampstead Bypass will connect to the proposed Military Cutoff Road Extension at the existing US 17 Wilmington Bypass and extend to existing US 17 north of Hampstead. Full control of access is proposed for the US 17 Hampstead Bypass. The total length of the selected alternative for the two projects is approximately 17.5 miles.

Summary of Impacts:

For **U-4751**, proposed permanent impacts to jurisdictional areas total 59.99 acres of permanent wetland impacts (55.19 acres of fill and 4.80 acres of mechanized land clearing), 2,122 linear feet of permanent stream impacts (including 55' of bank stabilization), and 7.76 acres of permanent surface waters impacts.

Preliminary proposed impacts (based on proposed slope stakes, plus 25 feet) for **R-3300** include, 155.86 acres of permanent wetland impacts, 11,900 linear feet of permanent stream impacts, and 2.56 acres of permanent surface water impacts.

Avoidance and Minimization

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

All jurisdictional features were delineated, field verified and surveyed within the corridor for U-4751 & R-3300. Using these features, preliminary designs were adjusted to avoid and/or minimize impacts to jurisdictional areas. NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in all of its designs. Many of these strategies have been incorporated into BMP documents that have been reviewed and approved by the resource agencies and which will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. Individual avoidance and minimization items are as follows:

- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters.
- The project was designed to avoid or minimize disturbance to aquatic life movements.
- NCDOT and its contractors will not fill or perform land clearing activities within Waters of the U.S. or any areas under the jurisdiction of the USACE, except as authorized by the USACE. To ensure that all borrow and waste activities occur on high ground, except as authorized by permit, the NCDOT shall require its contractors to identify all areas to be used to borrow material, or to dispose of dredged, fill or waste material. Documentation of the location and characteristics of all borrow and disposal sites associated with the project will be available to the USACE on request.
- Grass swale, median roadway ditches and riprap dissipater treatments have been incorporated where applicable.
- Proposed box culverts will be buried 1 ft. to provide for fish passage.
- Cross pipes in jurisdictional streams will be buried 1ft. for all pipes where possible.
- Sediment and erosion control devices will be utilized where appropriate.
- Bank stabilization at outlets of pipes will not impact the stream bed where possible.
- Considering environmental, hydraulic, and roadway perspectives, 3:1 slopes are proposed within the wetlands where most practical..

Compensatory Mitigation

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

For TIP No. U-4751, the applicant has acquired compensatory mitigation for the unavoidable impacts to non-riparian wetlands from the Northeast Cape Fear Mitigation

Bank. The stream mitigation would be provided by the North Carolina Department of Environmental Quality (NCDEQ)- Division of Mitigation Services (DMS).

For TIP No. R-3300, the applicant has stated they would consider any feasible on-site mitigation, available private mitigation bank credits, or mitigation provided by the NCDEQ-DMS. This proposal would occur once the final plans are complete and would be presented in their future modification request.

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 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:

- Historic properties, or properties eligible for inclusion in the National Register, 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.

A result of early coordination with the SHPO, a Memorandum of Agreement has been signed by the NCDOT, UASCE, and SHPO stipulating steps to mitigate the adverse effects to known eligible sites for the National Register of Historic Places.

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 (ESA) 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, likely to adversely affect federally listed endangered or threatened species or their formally designated critical habitat.

Consultation under Section 7 of the ESA has already begun and concluded resulting in a Biological Opinion prepared by the United States Fish and Wildlife Service. This Biological Conclusion has identified reasonable and prudent measures and terms and conditions the applicant must adhere to if the permit is issued.

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, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. 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 XXXX 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):

- The application included 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 NCDCM, and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification. As the application included the consistency certification, the Corps requests, via this Public Notice, concurrence or objection from the NCDCM.

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 a Record of Decision (ROD) 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.

NCDOT has held two Citizens Information Meetings (2007), two Public Hearings regarding the NCDOT preferred corridor (2011), and one Design Public Meeting for U-4751 (2012). The results of these meetings were captured in the NEPA documentation completed to date.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, February 13, 2017. Comments should be submitted to Mr. Brad Shaver, Project Manager, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4611 or brad.e.shaver@usace.army.mil.