



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: November 30, 2017  
Comment Deadline: January 2, 2018  
Corps Action ID Number: SAW-2009-02019

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) 03010103 (Roanoke River basin) and 03030002 (Cape Fear River basin), associated with Transportation Improvement Project (TIP) No. U-4734 (Macy Grove Road extension) in 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:

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

**Applicant:** Ms. Amy Euliss  
North Carolina Department of Transportation Division 9  
375 Silas Creek Parkway  
Winston Salem, North Carolina 27127

**Agent:** Ms. Nancy Scott  
Three Oaks Engineering  
324 Blackwell Street, suite 1200  
Durham, North Carolina 27701

## 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: The project is approximately 1.7 miles long and begins on new location north of East Mountain Road heading north across Reedy Fork and an associated wetland system. The roadway then merges with SR 2036 (Smith Edwards Road), widening the existing roadway, before going back on new location, ultimately terminating at NC 150, north of the existing intersection at Smith Edwards Road and NC 150.

Project Area (acres):	1.73 miles	Nearest Town:	Kernersville
Nearest Waterway:	Reedy Fork	River Basin:	Roanoke/Cape Fear
Latitude and Longitude:	36.1249N, -80.0464W		

## **Existing Site Conditions**

Project U-4734 is located within the Piedmont Physiographic Province in the Roanoke (HUC 03010103) and Cape Fear River Basins (HUC 03030002) in Forsyth County. Jurisdictional features within the U-4734 project study area that will be impacted include 1 unnamed tributary (UT) to Reedy Fork (NCDWR Classification WS-III; NCDWR Index No. 16-11-(1)), Reedy Fork, 1 UT to Belews Creek (NCDWQ Classification C; NCDWQ Index No. 22-27-8-(1)), and two riparian wetlands.

There are no designated Outstanding Resource Waters (ORW), High Quality Waters (HQW), Water Supply I (WS-I), or Water Supply II (WS-II) waters within 1.0 mile of the project area. Reedy Fork is listed as Fair on the North Carolina 2016 303(d) list of impaired streams for bioclassification of ecological/biological integrity of fish communities. East Belews Creek is not listed as impaired on the North Carolina 2016 303(d) list.

## **Applicant's Stated Purpose**

The purpose of the proposed project is to provide a link between I-40 Business/US 421 and NC 150 (N. Main Street) north of Kernersville, to reduce congestion in downtown Kernersville, and to provide a segment of the future Kernersville Loop Road. Currently, there is not direct roadway link between I-40 Business and NC 150 north of Kernersville. Additionally, congestion exists in downtown Kernersville. This project would provide the link between NC 150 and East Mountain Street.

## **Background**

A Final Environmental Assessment was completed by the Federal Highway Administration in September 2010, and the Finding of No Significant Impact (FONSI) was approved June 2011. This document was written for both this project (TIP U-4734) and TIP U-2800. The U-2800 project was determined to have independent utility and was permitted separately in 2013 (Ref. SAW 2009902019 and DWR 2013-0352) and has been constructed.

A full range of preliminary study alternatives were evaluated for the proposed action. Several preliminary alternatives were eliminated from further consideration because they did not meet the purpose and need for the project. Three build alternatives were further developed into detailed study alternatives for evaluation. The three detailed study alternatives for U-4734 all began at the U-2800 end point, varied in location near the Reedy Fork crossing, and ultimately converged, improving Smith Edwards Road before terminating at NC 150. For more details on the alternative analysis done for this project, see FHWA's Final Environmental Assessment.

In compliance with the NEPA/404 Merger Process, the Merger team met on June 8, 2016, and concurrence was confirmed for the Merger Concurrence 4B Hydraulic Design Review. On May 17, 2017, the interagency Merger team met and concurrence was confirmed for the Merger Concurrence 4C Permit Drawings Review. On November 15, 2017, NCDOT applied for a permit application to discharge fill material into waters of the United States for U-4734.

### **Project Description**

NCDOT proposes to extend Macy Grove Road (SR 2601) from north of SR 1005/Old US 421/East Mountain Road (where it joins project U-2800) to NC 150/North Main Street near Kernersville in Forsyth County. The project begins on new location north of East Mountain Road heading north across Reedy Fork and an associated wetland system. The roadway then merges with SR 2036 (Smith Edwards Road), widening the existing roadway, before going back on new location, ultimately terminating at NC 150, north of the existing intersection at Smith Edwards Road and NC 150. The new road alignment is a four lane divided section with curb and gutter. The grass median width is 23 feet wide, the inside lanes are 12 feet wide, and the outside lanes are 14 feet wide. There is a 10 foot grass shoulder. The estimated length of the project is 1.73 miles. This project is included in the North Carolina Department of Transportation's Transportation Improvement Program (TIP).

### *Summary of Impacts*

Proposed impacts for U-4734 project include permanent impacts to 503 linear feet of stream channel (445 linear feet of permanent fill and 58 linear feet of bank stabilization), and 1.30 acre of wetlands (1.24 acre of permanent fill, and 0.06 acre of mechanized clearing). The proposed project also involves temporary impacts to 94 linear feet of stream channel.

Activities resulting in permanent fill in streams include culvert installation, channel re-alignment, and stream channelization activities. Bank stabilization activities are a separate type of fill activity as these activities do not typically occur within the channel (thalweg) of the stream, but rather only on the stream banks. Activities resulting in permanent impacts in wetlands include roadway fill for bridge construction, excavation in association with a fill activity, and mechanized clearing without a specified wetland

restoration plan. Temporary impacts proposed are those associated with construction access and dewatering activities, as well as stormwater tie-ins where the impact areas would be returned to pre-construction grade and contour following construction.

### **Avoidance and Minimization**

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

- NCDOT's Design Standards in Sensitive Watersheds will be followed for implementing erosion and sediment control BMPs along the entire project.
- The proposed vertical alignment over the culvert was minimized to reduce the culvert length and therefore stream impacts.
- At the Reedy Fork crossing, NCDOT agreed to span the natural system and floodplain with a bridge, though hydraulically only a culvert is required, to minimize impact to Reedy Fork and the associated natural system. By bridging the system, the following impacts were avoided:
  - ◆ 190 lf of stream
  - ◆ 80 lf of bank stabilization
  - ◆ 20 lf of temporary impacts due to dewatering
  - ◆ 1.11 acre of permanent wetland fill
  - ◆ 0.11 acre of mechanized wetland clearing.

### **Compensatory Mitigation**

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

For U-4734, 503 linear feet of permanent warm water stream impacts are proposed. Of that total, NCDOT does not propose to provide compensatory mitigation for the 58 linear feet of bank stabilization impacts. Of the remaining 445 linear feet of permanent stream impacts, NCDOT proposes to provide compensatory mitigation for 445 linear feet at a 2:1 ratio. Compensatory mitigation for the 1.3 acre of U-4734 wetland impacts is proposed at a 2:1 ratio. NCDOT proposes to provide the above compensatory mitigation through purchasing stream and wetland credits from the NC Division of Mitigation Services (NCDMS).

### **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:

- Should historic properties, or properties eligible for inclusion in the National Register, be present within the Corps' permit area; the proposed activity requiring the DA permit (the undertaking) is a type of activity that will have no potential to cause an effect to an historic properties.
- 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).
- Properties ineligible for inclusion in the National Register are present within the Corps' permit area; there will be no historic properties affected by the proposed work. The Corps subsequently requests concurrence from the SHPO (or THPO).
- Historic properties, or properties eligible for inclusion in the National Register, are present within the Corps' permit area; however, the undertaking will have no adverse effect on these historic properties. The Corps subsequently requests concurrence from the SHPO (or THPO).
- 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 (or THPO).
- The proposed work takes place in an area known to have the potential for the presence of prehistoric and historic cultural resources; however, the area has not been formally surveyed for the presence of cultural resources. No sites eligible for inclusion in the National Register of Historic Places are known to be present in the vicinity of the proposed work. Additional work may be necessary to identify and assess any historic or prehistoric resources that may be present.

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 would not affect federally listed endangered or threatened species or their formally designated critical habitat.
- 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.

**According to the North Carolina Natural Heritage Program (NHP) Biotics Database, most recently updated October 2015, the nearest NLEB hibernacula record is 80 miles west and no known NLEB roost trees occur within 150 feet of the project area.**

**NCDOT has also reviewed the USFWS Asheville Field office website for consistency with NHP records ([http://www.fws.gov/asheville/htmls/project\\_review/NLEB\\_in\\_WNC.html](http://www.fws.gov/asheville/htmls/project_review/NLEB_in_WNC.html)). This project is located entirely outside of the red highlighted areas (12-digit HUC) that the USFWS Asheville Field Office has determined to be representative of an area that may require consultation.**

**NCDOT has determined that the proposed action does not require separate consultation on the grounds that the proposed action is consistent with the final Section 4(d) rule, codified at 50 C.F.R. § 17.40(o) and effective February 16, 2016. NCDOT may presume its determination is informed by best available information and consider Section 7 responsibilities fulfilled for NLEB. NCDOT made notification to USFWS on April 12, 2016.**

- The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat. Consultation has been completed for this type of activity and the effects of the proposed activity have been evaluated and/or authorized by the National Marine Fisheries Service (NMFS) in the South Atlantic Regional Biological Opinion or its associated documents, including 7(a)(2) & 7(d) analyses and Critical Habitat assessments. A copy of this public notice will be sent to the NMFS.
- The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment

and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

### **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, 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 December 21, 2017 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 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 NCDCM, and the NCDCM 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 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, January 2, 2018. Comments should be submitted to Mr. James Lastinger, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587, at (919) 554-4884 ext 32.