



**US Army Corps  
Of Engineers**  
Wilmington District

# PUBLIC NOTICE

Issue Date: January 14, 2019  
Comment Deadline: February 13, 2019  
Corps Action ID Number: SAW-2013-01842

The Wilmington District, Corps of Engineers (Corps) received information from the North Carolina Department of Transportation (NCDOT) regarding a potential future requirement for Department of the Army authorization to discharge dredged or fill material into waters of the United States, associated with improving US 158 (Shortcut Road) from East of NC 34 (Shawboro Road) at Belcross to NC 168 (Caratoke Highway) in Camden and Currituck Counties, North Carolina. The project is identified in NCDOT's 2018-2027 State Transportation Improvement Program (STIP) as Project Number R-2574. Right of way acquisition and construction are unfunded and programmed for future years behind the STIP horizon.

Specific location information is described below. Construction plans are not attached to this Public Notice due to the large amount 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/> .

**Applicant:** North Carolina Department of Transportation (NCDOT)  
Project Management Unit  
Attn: Nicole Hackler  
Project Manager  
1595 Mail Service Center  
Raleigh, North Carolina 27699-1595

## Authority

The Corps will evaluate this application to compare alternatives that have been carried forward for detailed study 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)

In order to more fully integrate Section 404 permit requirements with the National

Environmental Policy Act of 1969, and to give careful consideration to our required public interest review and 404(b)(1) compliance determination, the Corps is soliciting public comment on the merits of this proposal and on the alternatives considered. At the close of this comment period, the District Commander will evaluate and consider the comments received, as well as the expected adverse and beneficial effects of the proposed road construction, to select the least environmentally damaging practicable alternative (LEDPA). The District Commander is not authorizing construction of the proposed project at this time. A final DA permit may be issued only after our review process is complete, impacts to the aquatic environment have been minimized to the maximum extent practicable, and a compensatory mitigation plan for unavoidable impacts has been approved.

## **Location**

Location Description: The project extends from NC 34 at Belcross in Camden County to NC 168 in Currituck County, a distance of approximately 10.6 miles. The study area boundary for these projects encompasses the proposed transportation improvements (Figure 1).

Nearest Towns: Elizabeth City

Nearest Waterway: Coinjock Bay/Currituck Sound

River Basin: Pasquotank

Latitude: 36.350077

Longitude: -76.152354

## **Existing Site Conditions**

Camden and Currituck Counties are located within the coastal region of eastern North Carolina. The project begins at NC 34 approximately six miles east of Elizabeth City and ends at NC 168 near the community of Barco. The project area is rural in nature with a substantial presence of agricultural land uses. Residential development is sparse along the project corridor. The North River Game Land and low-lying wetlands occupy the middle and eastern portions of the study area.

The roadway to be improved as part of the proposed project includes US 158 (Minor arterial). Minor arterials interconnect with and augment the urban principal arterial system and provide service to trips of moderate length at a somewhat lower level of travel mobility than principal arterials. Existing US 158 is a two lane roadway through the project area.

## **Applicant's Stated Purpose**

The purpose of the proposed project is to improve mobility and increase the roadway carrying capacity of US 158 in the project area to support both regional transportation needs and hurricane evacuation.

## **Project Description**

North Carolina State Transportation Improvement Program (STIP) Project No. R-2574 extends from NC 34 at Belcross in Camden County to NC 168 in Currituck County, a distance

of approximately 10.6 miles (see Figure 1). Proposed improvements include four 12-foot travel lanes, a 46-foot median and eight-foot grassed shoulders (four-foot paved). It is anticipated approximately 200 feet of right of way will be required for the project. Partial control of access is proposed. All intersecting roadways will cross US 158 at-grade. No grade separations or interchanges are proposed.

The Albemarle Rural Planning Organization's Comprehensive Transportation Plans for Camden County (July 2014) and Currituck County (May 2012) have identified this section of US 158 as an expressway that needs improvement. In 2011, NCDOT performed a feasibility study for widening US 158. The feasibility study identified potential improvements, preliminary costs, and possible impacts to the community and natural resources. Project development studies for R-2574 also began in 2011. The project has followed an interagency decision-making process (known as the NEPA/ 404 merger process) to reach concurrence on key project milestones. Between 2013 and 2016, the interagency merger process team concurred on the project's purpose and need, alternatives to be studied in detail, and locations where wetlands and streams are to be bridged.

### **Project Benefits**

- **Regional Travel**

The proposed project will improve mobility and increase the traffic carrying capacity of this regionally important route. The additional capacity provided by this project will reduce travel time and provide a more reliable route for general travel and hurricane evacuations. The additional lanes will make it less likely the road would have to be closed due to an accident or other incident. US 158 is the only east-west route across Camden and Currituck Counties.

- **Traffic Levels of Service with Project**

The A traffic capacity analysis was conducted for the project for the year 2035. US 158 will operate at LOS A with the project. The NC 168 intersection will operate at LOS D. The unsignalized Maple Road intersection will have traffic movements that operate at LOS C. The Indiantown Road and NC 34 intersections are also unsignalized and will have traffic movements that operate at LOS E and LOS F.

- **Hurricane Evacuation**

The proposed widening of US 158 will result in substantial reductions in hurricane evacuation times. North Carolina General Statute 136-102.7 specifies that the hurricane evacuation standard to be used for any bridge or highway project is 18 hours.

The NC/ VA Border Traffic Control Plan calls for the closing of northbound NC 168 at the North Carolina border and redirecting evacuating traffic onto US 158 in cases where traffic evacuating from North Carolina would hinder the evacuation of the Virginia Beach/ Norfolk area. Without implementation of the NC/ VA Border Traffic Control Plan, evacuation times will be less than the 18-hour goal. Although the proposed widening alone

will not reduce evacuation times to below the 18-hour goal in the year 2035 with implementation of the Border Traffic Control Plan, the proposed widening will reduce evacuation times by approximately 44 percent (from 52 hours to 29 hours). Table 1 below presents evacuation times with the proposed widening. These evacuation times are from the September 2013 hurricane evacuation analysis.

**Table 1: Evacuation Clearance Times in the Year 2035 with Proposed Four-Lane US 158 (Category 3 Hurricane With 75% Occupancy)**

Condition	Time
Without NC/ VA Border Traffic Control Plan	14 hours
With NC/ VA Border Traffic Control Plan	29 hours

- **Safety**

By increasing the number of lanes on US 158, the proposed project is expected to have a positive impact on vehicular safety. The proposed project will likely make it safer for large trucks and local traffic. The proposed paved shoulders will improve roadway drainage, making it less likely for vehicles to hydroplane during rain events. The proposed median will provide separation between opposing traffic, making head-on collisions less likely. The proposed dual lanes in each direction will allow faster traffic to pass slower moving vehicles without using the opposing traffic lane, making head-on and rear-end collisions less likely. Emergency response time should improve with construction of the project. By reducing the congestion on US 158, emergency vehicles traveling within or through this area would likely have a reduction in emergency response time.

**Detailed Study Alternatives (DSA)**

Concurrence on the alternatives for detailed study was reached at a NEPA/404 Merger Team meeting held on December 18, 2014. Team members agreed on the study alternatives described below:

- **No-Build Alternative**

The No-Build Alternative would not provide any substantial improvements to US 158 within the study area; only typical maintenance activities would occur. The No-Build Alternative would not meet the purpose and need of the project.

- **Widening Build Alternatives**

Widening existing US 158 would increase roadway capacity as well as support regional transportation needs and hurricane evacuation. The project has been divided into six sections in order to analyze potential impacts. The sections are shown on Figure 2 and described below.

- Section 1 – West end of project to just west of SR 1135 – 1.5 miles

- Section 2 – Just west of SR 1135 in Camden County to approximately 0.6 mile west of the western SR 1148 intersection in Currituck County – 0.7 mile
- Section 3 – Approximately 0.6 mile west of the western SR 1148 intersection to approximately 0.7 mile east of the eastern SR 1148 intersection – 3.5 miles
- Section 4 – Approximately 0.7 mile east of the eastern SR 1148 intersection to approximately 0.1 mile east of Maple Road – 2.1 miles
- Section 5 – Approximately 0.1 mile east of Maple Road to approximately 0.2 mile west of Will Poyner Lane – 1.1 miles
- Section 6 – Approximately 0.2 mile west of Will Poyner Lane to east end of project – 1.6 miles

NCDOT analyzed and refined the preliminary widening scenarios and selected options for Section 1 (south side), Section 2 (best fit), Section 4 (south side), and Section 5 (south side). The reasons for selecting the widening scenarios are described in Table 2.

**Table 2: Widening Scenarios Selected for Detailed Study**

<b>Section</b>	<b>Scenario Selected</b>	<b>Reason For Selection</b>
1	South Side	Fewer business relocations
2	Best-Fit	Best fit for bridge at Run Swamp Canal
3	North Side and Best Fit	Fewer impacts to wetlands/ streams
4	South Side	Fewer impacts to wetlands/ streams, game land, and natural heritage area
5	South Side	Fewer impacts to wetlands/ streams, airport, and school
6	South Side and Best Fit	Fewer relocations and impacts to wetlands/ streams

A widening alternative was selected for four of the six project sections. The impacts of the detailed study alternatives are shown on Table 3.

**Table 3: Detailed Study Alternatives Comparison**

Impact	Section							
	1	2	3		4	5	6	
	South	Best Fit	North	Best Fit	South	South	South	Best Fit
<b>Relocations</b>								
Residential	0	0	12	7	0	3	21	10
Business	0	0	1	1	0	1	1	3
Non-Profit*	0	0	0	1	0	0	1	1
Total	0	0	13	9	0	4	23	14
Minority/ Low Income Populations Disproportionately Impacted?	None	None	None	None	None	None	None	None
Historic Properties (Adverse Effect)	None	None	None	None	None	None	None	None
Community Facilities**	0	0	0	0	0	2	0	0
Noise Impacts	5	2	12	13	0	17	13	19
North River Game Land (acres)	0	0	0	0	9.9	< 0.1	0	0
Forested Areas (acres)	1.3	11.5	8.5	8.5	28.2	1	4.3	4.3
Wetlands (acres)	0	11.6	0.1	0.3	20.9	0.1	0.3	0.4
Streams (linear feet)	0	0	276	336	0	156	0	0
Surface Water (acres)***	0	3.7	1	0.7	14.3	0.1	0.4	0.6
Floodplain (acres)	0.9	22.4	26.9	27.3	53.7	7.9	14.8	24.2
Endangered Species	No Effect	No Effect	No Effect	No Effect	No Effect	No Effect	No Effect	No Effect
<b>Costs</b>								
Right of Way	\$946,800	\$120,000	****	\$2,762,000	\$145,500	\$943,500	****	\$3,811,200
Utility Relocation^	\$103,000	\$39,000	\$577,000	\$28,000	\$92,000	\$535,000	\$882,000	\$126,000
Construction	\$9,100,000	\$11,000,000	\$23,600,000	\$23,300,000	\$16,800,000	\$7,500,000	\$10,200,000	\$9,800,000
Total	\$10,149,800	\$11,159,000	****	\$26,390,000	\$17,037,500	\$8,978,500	****	\$13,737,200
Length (miles)	1.5	0.7	3.5	3.5	2.1	1.1	1.6	1.6

\* The non-profit relocation in Section 5 is a volunteer fire department building. All other non-profit relocations are churches.

\*\* Community facilities that right of way would be required from, though they would not be relocated.

\*\*\* Tributaries to waters of the United States.

^Utility costs rounded up to next highest thousand.

\*\*\*\* Costs were calculated after Section 3 (North) and Section 6 (South) were removed from the detailed study alternatives and are not available for these eliminated sections.

Following detailed environmental surveys and preliminary design, the decision was made to eliminate the north side widening alternative in Section 3 and to eliminate the south side widening alternative in Section 6. Best fit widening is more desirable in Sections 3 and 6 to reduce relocations. The NEPA/ 404 Merger Team concurred with removing north side widening in Section 3 and south side widening in Section 6 from the detailed study alternatives at a meeting held on January 26, 2016. Table 4 summarizes the environmental effects of the current alternative.

**Table 4: Summary of Environmental Effects**

<b>Relocations</b>	
Residential	20
Business	5
Non-Profit	2
Total	27
Minority/ Low Income Populations Disproportionately Impacted?	None
Historic Properties (Adverse Effect)	None
Community Facilities	2
Noise Impacts	56
North River Game Land (acres)	10.0
Prime Farmland (acres)	59.0
Forested Areas (acres)	54.8
<b>Water Resources</b>	
Stream Crossings (major structures)	6
Wetlands (acres)	33.3
Streams (linear feet)	492
Surface Water (acres)	19.4
Floodplain (acres)	136.4
Endangered Species	No Effect
<b>Costs</b>	
Right of Way	\$8,729,000
Construction	\$77,500,000
Wetland/Stream Mitigation	\$3,000,000
Utility Relocation	\$923,000
Total	\$90,152,000
Length of Proposed Improvements (miles)	10.5

## **Waters of the United States**

### Streams, Rivers and Impoundments

All of the Build Alternatives have the potential to cause impacts on waters of the United States. These impacts are identified on Figure 3 and described below.

The North Carolina Division of Water Quality (NCDWQ) identifies the state’s river and stream systems by basins and subbasins. Water resources in the study area are part of the Pasquotank River basin [US Geological Survey (USGS) Hydrologic Unit 03010205]. Four streams were identified in the study area.

Ditches excavated for agricultural and roadside drainage purposes are located throughout the study area and are categorized as tributaries to waters of the United States. Approximately 8.16 acres of jurisdictional ditches are located in the study area. Two ponds, PA and PB, are located in the study area. These are excavated pits sustained by high groundwater levels. The ponds have no surface water connection to any jurisdictional stream features.

Run Swamp Canal within the project area is designated as an inland anadromous fish spawning area. There are no designated Primary Nursery Areas present in the study area. There are no designated High Quality Waters (HQW), Outstanding Resource Waters (ORW), or water supply watersheds (WS-I or WS-II) within one mile downstream of the study area. No streams within the project study area, or within one mile downstream of the study area, are identified on the North Carolina 2014 Final 303(d) list of impaired waters.

Benthic samples were collected at Sawyers Creek at SR 1259 in 2002. However, a determination of “Not Rated” was assigned to the samples. No fish monitoring data is available for any streams in the study area or within one mile of the study area.

Table 5 presents anticipated impacts to streams in the project area of the current alternative.

**Table 5: Anticipated Impacts to Water Resources in the Study Area**

Stream Name	Map ID	Anticipated Impacts (ft.)*	Classification	Compensatory Mitigation Required	River Basin Buffer
UT to Indiantown Creek	SA	336	Perennial	Yes	Not Subject
UT to Great Swamp	SC	156	Perennial	Yes	Not Subject
UT to Sawyers Creek	SW	0	Intermittent	Yes	Not Subject
UT to Sawyers Creek	SX	0	Intermittent	Yes	Not Subject
<b>Total</b>		492		--	--

\* Anticipated Impacts: Impacts to jurisdictional areas are considered to be all areas which fall within 25 feet of the proposed slope-stake limits.

### Wetlands

Twenty-two jurisdictional wetlands were identified within the study area (Figure 3). Wetland classification and quality rating data are presented in Table 6. All wetlands in the study area are within the Pasquotank River basin (USGS Hydrologic Unit 03010205).



**Table 6: Anticipated Impacts to Wetlands in the Study Area**

Map ID	NCWAM Classification	Hydrologic Classification	NCDWR Wetland Rating	Area (ac.)	Anticipated Impacts (ac.) *
WA	Riverine Swamp Forest	Riparian	88	0.8	0.0
WC	Riverine Swamp Forest	Riparian	96	20.9	6.2
WD	Riverine Swamp Forest	Riparian	49	0.4	0.0
WE	Riverine Swamp Forest	Riparian	44	0.1	0.0
WF	Headwater Forest	Riparian	45	1.7	<0.1
WG	Headwater Forest	Riparian	33	0.7	0.1
WH	Headwater Forest	Riparian	49	0.4	0.2
WI	Riverine Swamp Forest	Riparian	96	51.7	2.8
WR	Riverine Swamp Forest	Riparian	96	51.3	18.0
WS	Hardwood Flat	Riparian	32	0.1	<0.1
WT	Basin Wetland	Riparian	37	0.8	0.0
WU	Riverine Swamp Forest	Riparian	96	29.4	5.7
WV	Headwater Forest	Riparian	55	1.5	0.0
WX	Headwater Forest	Riparian	11	0.3	0.0
WY	Riverine Swamp Forest	Riparian	58	0.1	0.0
WAA	Basin Wetland	Riparian	58	1.1	0.2
WBB	Headwater Forest	Riparian	40	1.4	0.0
WEE	Headwater Forest	Riparian	48	0.6	0.0
WGG	Riverine Swamp Forest	Riparian	98	115.0	0.0
WJJ	Riverine Swamp Forest	Riparian	79	<0.1	0.0
WKK	Riverine Swamp Forest	Riparian	83	1.1	0.0
WLL	Headwater Forest	Riparian	48	0.3	0.0
<b>Total</b>				<b>279.7</b>	<b>33.3</b>

\* Anticipated Impacts: Impacts to jurisdictional wetlands are considered to be all areas which fall within 25 feet of the proposed slope-stake limits.

### **Avoidance, Minimization and Compensatory Mitigation**

Through development of the preliminary designs of the DSAs, NCDOT has attempted to avoid or minimize impacts to streams and wetlands to the greatest practicable extent. However, total avoidance of wetlands by the proposed project is not possible. US 158 in the project area crosses two large wetland systems. Wetlands are on both sides of the road, widening to either side of the road will affect wetlands. NCDOT will continue to seek ways to avoid and minimize impacts in further design efforts for the selected Alternative.

The purpose of compensatory mitigation is to offset unavoidable functional losses to the aquatic environment resulting from project impacts to waters of the United States. NCDOT will investigate potential on-site compensatory mitigation opportunities prior to submitting a Section 404 permit application. If on-site mitigation is not feasible, or a sufficient amount of mitigation is not available on-site, mitigation will be provided by the NC Department of Environmental Quality - Division of Mitigation Services (NCDEQ-DMS).

### **Coastal Area Management Act Areas of Environmental Concern**

One Coastal Area Management Act (CAMA) Area of Environmental Concern (AEC) was identified in the study area. Run Swamp Canal has been designated as a CAMA Public Trust Water. The canal crosses the study area near the eastern ends of wetlands WC and WU (Figure 3). A CAMA permit from the North Carolina Division of Coastal Management will be required for any impacts to designated AECs within the study area.

### **Construction Moratoria**

Run Swamp Canal within the project area has been identified by the North Carolina Wildlife Resources Commission as inland anadromous fish spawning waters. As a result, a moratorium on in-water construction work will be in effect from February 15th to June 30th.

### **North Carolina River Basin Buffer Rules**

No NCDWR river basin buffer rules apply to the study area.

### **Rivers and Harbors Act Section 10 Navigable Waters**

No waters in the study area have been designated by the US Army Corps of Engineers as Navigable Waters under Section 10 of the Rivers and Harbors Act.

### **Essential Fish Habitat**

According to the National Marine Fisheries Service, there is no essential fish habitat within the study area.

### **Permits Required**

An Individual Section 404 Permit will likely be applicable. The US Army Corps of Engineers holds the final discretion as to what permit will be required to authorize project construction. Since a Section 404 permit is required, then a Section 401 Water Quality Certification from the North Carolina Division of Water Resources will be needed.

A CAMA permit from the North Carolina Division of Coastal Management will be required for any impacts to designated AECs within the study area.

## **Cultural Resources**

The proposed project is subject to compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, and implemented by the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106, codified as 36 CFR Part 800. Section 106 requires federal agencies to take into account of their undertakings (federally-funded, licenses, or permitted) on properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and to afford the Advisory Council a reasonable opportunity to comments on such undertakings.

### Architectural Resources

In correspondence dated March 27, 2013, the State Historic Preservation Office (HPO) concurred the following properties are eligible for listing in the National Register.

- Creekmore Store and Gas Station: criterion A for commerce and criterion C for architecture
- Tom Sawyer and Sons Complex: criterion A for commerce and criterion C for architecture
- Cooper House: criterion C for architecture

Upon further correspondence with the HPO, the Creekmore Store and Gas Station and the Cooper House were determined to be outside the project study area and would not be affected by the proposed US 158 improvements. The Tom Sawyer and Sons Complex falls within the study area for this project (R-2574), but improvements to US 158 adjacent to the property were made by an adjacent US 158 widening project (R-2414), which is complete. Impacts to the Tom Sawyer and Sons Complex were documented in the environmental document for R 2414. Project R-2574 will not acquire right of way or involve construction activities within the property's boundary. The project will have no effect on the property, and the HPO concurs with this determination.

### Archaeological Resources

An archaeological survey was conducted for the project. A total of 116 archaeological sites were addressed. Of these, one site (31CK178) was recommended eligible for the National Register of Historic Places. The proposed project is not expected to affect Site 31CK178. Project plans will be reviewed prior to right of way acquisition to confirm the project will not affect this site. If it is determined Site 31CK178 will be affected by project construction, a mitigation plan will be developed and implemented prior to construction.

Additional work may be required at six sites (31CK134, 31CK252, 31CK260, 31CK272, 31CK282 and 31CK286) because access was denied by the property owners. Project plans will be reviewed prior to right of way acquisition to determine whether or not these sites are located within the proposed right of way for the project. If these sites are located within proposed right of way, these sites will be assessed after right of way has been acquired.

If it is determined any of the six archaeological sites requiring additional testing are within proposed right of way, a request will be sent to the NCDOT Right of Way Unit asking that acquisition of required right of way from the properties containing the sites begin as soon as right of way acquisition is authorized.

None of the other sites addressed by the survey are recommended as eligible for the National Register. No further work is recommended for these sites.

Sixteen cemeteries and three sites containing cemeteries were recorded during archaeological surveys. Nine of these cemeteries will not be affected by the project. If any of the remaining seven cemeteries cannot be avoided, the cemeteries will be relocated in accordance with GS 65-13.

Farmland

Much of the land on either side of US 158 is prime farmland and farmland of statewide importance. However, because R-2574 is state funded, these farmland soils are not eligible for protection under the FPPA but are subject to Executive Order 96. The project involves widening the existing road. Most of the soils along both sides of the existing road, except in portions of Run Swamp and Great Swamp, are prime farmland, prime farmland if drained, or farmland of statewide importance. Within the proposed right of way are 10.2 acres of prime farmland, 48.8 acres of prime farmland if drained or protected from flooding, and 53.0 acres of statewide important farmland.

Camden County has an adopted Voluntary Agricultural District (VAD) ordinance and Enhanced Voluntary Agricultural District Ordinance (EVAD) to encourage the preservation of farmland. Currituck County does not have a VAD or EVAD ordinance. There are no parcels participating in the Camden County VAD program in the project area.

**Game Lands and Preservation Areas**

The North River Game Land totals 20,318 acres, and extends through both Camden and Currituck Counties. The game land offers activities including hunting, shooting, fishing, hiking, and biking. The proposed project area extends into the north side of the game land and is estimated to impact 10.0 acres.

**Hazardous Materials**

Eight possible underground storage tank (UST) facilities were identified within the proposed project corridor. Low monetary and scheduling impacts resulting from these sites are anticipated. These sites are described in Table 7.

**Table 7: Potentially Contaminated Properties in Project Area**

Site	Site Name	Facility ID#	Facility Type
1	New Vision Community Church	None	Possible former gas station
2	Former Shawboro Service Center	None	Possible former gas station
3	Crawford Township Volunteer Fire Department	None	Possible UST
4	Central Elementary School	0-011911	Heating oil USTs
5	The Bar	None	Former gas station w/ USTs
6	7-Eleven 202996	0-011789	Gas station w/ USTs

7	Frog Island Seafood	0-001120	Former store w/ USTs
8	Poyner Auto Sales & Service	0-001907	Former service station w/ USTs

### 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 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.

As of April 2, 2015 (Camden County) and November 30, 2015 (Currituck County), the U.S. Fish and Wildlife Service (USFWS) lists seven federally protected species for Camden County, including the Shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), American alligator (*Alligator mississippiensis*), Northern long-eared bat (*Myotis septentrionalis*) (see below for more information), Red-cockaded woodpecker (*Picoides borealis*), Red knot (*Calidris canutus rufa*), and West Indian manatee (*Trichechus manatus*).

It also lists 11 federally protected species for Currituck County, including the Shortnose sturgeon (*Acipenser brevirostrum*), Seabeach amaranth (*Amaranthus pumilus*), Green sea turtle (*Chelonia mydas*), Hawksbill (Carey) sea turtle (*Eretmochelys imbricate*), Kemp's (Atlantic) ridley sea turtle (*Lepidochelys kempii*), Loggerhead sea turtle (*Caretta caretta*), Piping plover (*Charadrius melodus*), Leatherback sea turtle (*Dermochelys coriacea*), Red-cockaded woodpecker (*Picoides borealis*), Red knot (*Calidris canutus rufa*), and West Indian manatee (*Trichechus manatus*).

NCDOT will resurvey for Red-cockaded woodpecker prior to construction.

- The Corps determines that the proposed project may affect, but is not likely to adversely affect, federally listed endangered or threatened species or their formally designated critical habitat.
  - The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
- 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.

#### Northern Long-eared Bat (NLEB):

The US Fish and Wildlife Service developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers, and NCDOT for the northern long-eared bat (NLEB) (*Myotis septentrionalis*) in eastern North Carolina. The PBO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. The programmatic determination for NLEB for the NCDOT program is “May Affect, Likely to Adversely Affect.” The PBO provides incidental take coverage for NLEB and will ensure compliance with Section 7 of the Endangered Species Act for five years for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Camden and Currituck Counties.

#### Bald and Golden Eagle Protection Act

Habitat for the bald eagle primarily consists of mature forest in proximity to large bodies of open water for foraging. Large dominant trees are utilized for nesting sites, typically within one mile of open water.

A desktop-GIS assessment of the project study area, as well as the area within a 1.13-mile radius (one mile plus 660 feet) of the project limits, was performed on June 29, 2012 using 2010 color aerials. Coinjock Bay is located approximately 0.3 mile east of the project study area. Surveys were conducted by biologists throughout areas of suitable habitat July 11-12, 2012. No bald eagles or nesting sites were observed. Suitable nesting trees were observed to be sparse within the study area and within 660 feet of the study area. A review of the NC Natural Heritage Program database, updated October 2015, revealed no known occurrences of this species within one mile of the project study area. Due to the results of the survey and lack of known occurrences, it has been determined this project will not affect this species.

#### **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 select the least environmentally damaging practicable alternative (LEDPA) 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.

Due to the current lapse in funding for other Federal agencies that may have an interest in commenting on the proposed action, the District Engineer may extend the comment period to allow such agencies to comment so that the he can complete his required Public Interest Review.

### **Public Meeting**

NCDOT held an informal public hearing for the project June 5, 2018. The purpose of the hearing was to provide the public with information on the project, review the project designs, and gather comments on the project. NCDOT was assisted by the consultant firm HDR. A total of 80 individuals signed in to the meeting.

Prior to the informal public hearing a Local Officials Informational Meeting was held for public officials. These officials were invited to attend the meeting before the public in order to voice any concerns.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, February 13, 2019. Comments should be submitted to Kyle Barnes, 2407 West 5<sup>th</sup> Street, Washington, North Carolina 27889, at 910.251.4584, or by email to [kyle.w.barnes@usace.army.mil](mailto:kyle.w.barnes@usace.army.mil).