



US Army Corps  
Of Engineers  
Wilmington District

# PUBLIC NOTICE

Issue Date: June 1, 2018  
Comment Deadline: June 29, 2018  
Corps Action ID Number: SAW-2015-01253

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation, Division 5, seeking Department of the Army authorization to discharge fill material into waters of the United States associated with the proposed replacement of Bridge No. 376 (STIP Project Number B-4833), on SR 2761, Wimberly Road, in Wake County, North Carolina, impacting 0.28 acre of wetlands and 830 linear feet of streams.

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/Regulatory-Permit-Program/Public-Notices/>.

**Applicant:** North Carolina Department of Transportation (NCDOT), Div 5  
Attn: Christopher Murray  
2612 N. Duke Street  
Durham, NC 27704

## 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:

Project Area (acres): N/A                      Nearest Town: Willow Springs  
Nearest Waterway: Little Black Creek      River Basin: Neuse  
Latitude and Longitude: 35.52728 N, - 78.70332 W

## **Existing Site Conditions**

The site is an existing bridge crossing of a typical lower piedmont, perennial stream, Little Black Creek, and abutting wetlands. Two smaller perennial streams with abutting wetlands closely parallel the road on both sides. Little Black Creek is a Class C NSW. The overall area of the project is a mix of forested, agricultural and residential uses in southern Wake County.

## **Applicant's Stated Purpose**

Replacement of a structurally deficient bridge.

## **Project Description**

Replacement of Bridge 910376 over Little Black Creek. Replace existing 3-span bridge (1@17.5', 1@17', 1@17.5' with in-stream interior piers) with a new 1-span bridge (1@70' that completely spans Little Black Creek) on a slightly revised alignment. This will involve reconstruction of the existing two-lane road having substandard design with a new two-lane road that meets current minimum design criteria including some slight alignment revisions to accommodate safety concerns.

The bridge will be replaced in-place and have a clear roadway width of 30 ft, 10 in. The roadway will have two 11 ft lanes, with total shoulder width of 6 ft of which 2 ft minimum will be paved. An off-site detour will be used during construction.

The construction of approach fills and stormwater grading will cause permanent loss of 0.03 acre of headwater and bottomland forest wetlands, and 795 linear feet of perennial stream. Also proposed are permanent impacts without loss from mechanized clearing, excavation and bank stabilization to 0.25 acre of wetlands and 11 linear feet of stream. Lastly, temporary impacts to 24 linear feet of stream for dewatering are also proposed.

## **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Roadway was shifted to flatten horizontal curve to meet current roadway design criteria resulting in increased fill in wetland and stream. Road grade was raised to maintain hydraulic opening of bridge. Fill slopes near wetland and streams were kept to steepest possible (at least 2:1) to provide minimum acceptable geotechnical stability. Design of 2:1 fill slope with rip rap are used without berm between the fill slope and relocated channel on left side. Existing bridge has existing timber pile bents along both the north and south streambanks. The new bridge completely spans Little Black Creek. The contractor will construct the project in a manner to stay within the permitted wetland, stream and riparian buffer impacts. On-site supervision of the project by the Division Environmental Supervisor and contract

inspectors will allow an evaluation of all construction activities to determine if there are appropriate ways to further minimize construction impacts.

### **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: 1,612 warm stream credits to mitigate for 806 linear feet of permanent stream impacts, and 0.56 acre of riparian wetland mitigation to mitigate for 0.28 acre of permanent wetland impacts, by payment to the NC Division of Mitigation Service In-lieu-fee Program.

### **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 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 federally listed endangered or threatened species or their formally designated critical habitat.
  - This May Affect, Likely to Adversely Affect determination for the Northern Long-eared Bat is covered under a programmatic the U.S. Fish and Wildlife Service's (USFWS's) Programmatic Biological Opinion (BO) titled 'Northern Long-eared Bat (NLEB) Programmatic Biological Opinion for North Carolina Department of Transportation (NCDOT) Activities in Eastern North Carolina (Divisions 1-8),' dated March 25, 2015, and adopted on May 4, 2015, which contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with 'incidental take' that are specified in the BO.
  - 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 will consult under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
  - The Corps has initiated 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.

### **Other Required Authorizations**

This notice and all applicable application materials have been forwarded 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 June 22, 2018 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

### **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, June 29, 2018. Comments should be submitted to Eric Alsmeyer, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105 , Wake Forest, North Carolina 27587, at (919) 554 - 4884 x23.