



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: May 26, 2017
Comment Deadline: June 26, 2017
Corps Action ID Number: SAW-2016-00865

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT), seeking Department of the Army (DA) authorization to permanently impact 15.11 acres of wetlands and 2,167 linear feet of stream associated with construction of a four lane median divided highway on new location north and west of the city of Kinston in Lenoir County, North Carolina. (NCDOT TIP No.W-5703)

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. Maria A. Rogerson
Division 2 - Bridge Program Manager
North Carolina Department of Transportation
105 Pactolus Hwy. (NC 33)
P.O. Box 1587
Greenville, NC 27835-1587

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 site location extends from the C.F. Harvey Parkway (NC 148) Extension at the intersection with NC 58 to the east, intersecting with NC 11.

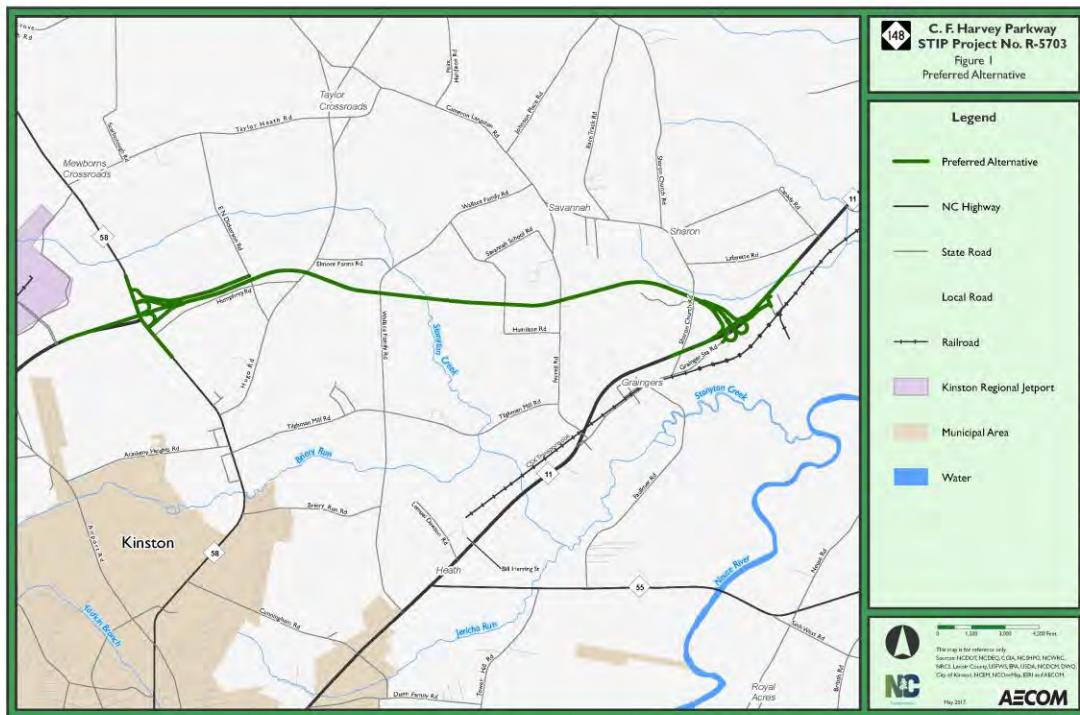
Project Area (acres): 5.7 miles

Nearest Town: Kinston

Nearest Waterway: Neuse River

River Basin: Neuse River

Latitude and Longitude: Approximate center at N, 35.332686 W. -77.541365



Existing Site Conditions

The study area lies in the rolling coastal plain physiographic region of North Carolina. Topography in the project vicinity is comprised of gently rolling hills with narrow, level floodplains and moderately steep slopes along streams. Elevations in the study area range from 20 to 25 above mean sea level on the flats and interstream divides and somewhat less within the stream corridors. Land use in the project vicinity consists of primarily active agricultural croplands and managed pine plantations. Light residential development exist along roadways with forested lands occupying stream corridors and other undeveloped areas.

The project is located in the Neuse River Basin and lies within Hydrologic Unit 03020202 (Subbasin Middle Neuse). This is within the Middle Atlantic Coastal Plain

eco-region. The project crosses Beaverdam Branch and Stonyton Creek as well as several tributaries to waters of the US, and multiple wetlands.

Based on a field review of the delineation of Waters of the US (WOUS), including wetlands, the USACE issued a Preliminary Jurisdictional Determination (PJD) on April 27, 2016. In addition, on May 31, 2016, the NCDWR issued an On-Site Determination for Applicability to the Neuse Buffer rules and Applicability to Mitigation rules.

A wetland identification and preliminary assessment analysis for the study area was conducted from October 6, 2015 through February 2, 2016 and is summarized in the June 2016 Natural Resources Technical Report (NRTR). The wetlands within the study area were delineated based on the 1987 USACE Wetland Delineation Manual and Regional Supplement for the Atlantic and Gulf Coastal Plain Region. A preliminary design was prepared to avoid and minimize wetlands to the maximum extent possible. Thirty-three jurisdictional wetland sites were initially identified within the initial project corridor (NCDOT, 2012). After design revisions (avoidance/minimization and expansion of the corridor right-of-way), there are 10 jurisdictional wetlands sites that will be permanently impacted (2 of which are total takes) by the proposed project.

Wetland systems throughout the study area vary in vegetative composition depending on hydrological regime and site-specific disturbances. The project area contains the following North Carolina Wetland Assessment Method (NCWAM) wetland types: Non-tidal Freshwater Marsh, Pine Flat, Riverine Swamp Forest, Hardwood Flat and Headwater Forest.

Streams within the project footprint with surface water classifications include Stonyton Creek and Beaverdam Branch. The Best Usage Classification for both streams is “C, Sw, and NSW.” Details for the jurisdictional streams within the project area are provided in the NRTR. There are no waters within the project vicinity classified as High Quality Waters (HQW). Neither Water Supplies (WS-I: undeveloped watersheds or WS-II: predominately undeveloped watersheds), nor Outstanding Resource Waters (ORW) occur within 1.0 mile of the project area. Streams within the project area are not designated as North Carolina Natural or Scenic Rivers, or as National Wild and Scenic Rivers. Additionally, these waters are not listed on the 2014 303(d) list of impaired waters due to sedimentation or turbidity.

Applicant’s Stated Purpose

The purpose of the proposed project is to improve regional and area connectivity in areas north and west of Kinston among US 70, NC 58, NC 148 and NC 11.

Project Description

The NCDOT is proposing to extend NC 148 (C.F. Harvey Parkway) on new location as a four-lane, median divided freeway with full control of access in Lenoir County, North Carolina. The project extends from NC 58 east to NC 11 in Lenoir County, north of the

City of Kinston. The length of the project is approximately 5.8 miles. The proposed project is listed in the approved 2016-2025 State Transportation Improvement Program (STIP) as Project Number R-5703 and is state-funded.

Avoidance and Minimization

All jurisdictional features were delineated, field-verified, and surveyed within the study area. Two build alternatives were studied and Alternative 2 was selected as the Preferred Alternative. The designs were developed in more detail and adjusted to avoid and minimize impacts to jurisdictional areas. Project designs were reviewed during development stages by an interagency review team consisting of representatives from NCDOT, NCDEQ-DWR, NCWRC, USACE, Michael Baker International, Sungate Design Group, and AECOM. Input from parties concerned have helped develop appropriate and practicable steps to avoid and minimize impacts to sensitive 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 that will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. General avoidance and minimization measures are as follows:

- NCDOT's Best Management Practices (BMPs) for the Protection of Surface Waters will be strictly enforced;
- Impacts to wetlands, streams, and open waters were avoided and/or minimized by adjusting alignments and slopes;
- 3:1 fill slopes have been used at stream and wetland crossings to reduce impacts and to promote sheet flow since shoulder berm gutter is not used;
- All storm drainage will be diffused and designed for non-erosive velocities before entering stream and wetland areas to the maximum extent practicable;
- Two dry detention basins have been specified (one at each interchange) to provide stormwater treatment and detention;
- Direct discharge of stormwater to streams has been avoided to the extent practicable;
- Rip rap stabilization on banks of jurisdictional streams will be implemented to prevent erosion;
- Minimizing "in stream" activities.
- Decreasing the footprint of the proposed project through the reduction of right-of-way widths.
- Utilizing natural stream channel design principles when relocating streams.

Proposed stream impacts (2,167 linear feet) decreased from the impacts presented in the State EA/FONSI (3,938 linear feet). Proposed wetland impacts (15.11 acres) decreased from the impacts in the State EA/FONSI (20.97 acres). These decreases in jurisdictional impacts were achieved by the refinement of the design plans and incorporation of avoidance and minimization measures in the hydraulic designs.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment. This project will permanently impact a total of 2,167 linear feet of warm water streams, including 1,597 linear feet of perennial stream channel and 570 linear feet of intermittent stream channel. The project will also permanently impact a total 15.11 acres of wetlands including 2.05 acres of riparian wetlands and 13.06 acres of non-riparian wetlands. The unavoidable impacts to wetlands and Waters of the U. S. will be offset by compensatory mitigation provided by the North Carolina Department of Environmental Quality (NCDEQ) Division of Mitigation Services.

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' determination is that the proposed project will not affect 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 and NCDOT coordinated with the NC Department of Cultural Resources and it was determined that no historic resources would be affected by the proposed project, and has received written concurrence from SHPO.
- 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.

A Determination of Effects Meeting was held with the State Historic Preservation Office on April 26, 2016, to determine potential impacts to the four eligible historic architectural resources. During the meeting, it was determined that the proposed project would have no effects on any of these properties.

Two previously identified archaeological sites (LR103 and LR 318), which have been identified as potentially eligible for the National Register of Historic Places are located within the project study area. No direct impacts are expected to the two sites during construction of the proposed project. However, additional archaeological investigations will be conducted on the preferred corridor during the final design.

- 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 has been 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 US Fish and Wildlife Service has developed a programmatic biological opinion (PBO) in conjunction with the Federal Highway Administration (FHWA), the US Army Corps of Engineers (USACE), 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 federal nexus in Divisions 1-8, which includes this project.

- The Corps determines that the proposed project may 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 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, 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 26, 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 (NCDWM):

- 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 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.

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, June 26, 2017. Comments should be submitted to Mr. Thomas Steffens, Washington Regulatory Field Office , 2407 West Fifth Street , Washington, North Carolina 27889 .