



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 8, 2020

Comment Deadline: May 8, 2020

Corps Action ID Number: SAW-2007-01386

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation seeking Department of the Army authorization to discharge dredged or fill material into waters and wetlands of the US in Hydrologic Unit Codes (Cape Fear 03030007 and White Oak 03020302), associated with Transportation Improvement Project R-3300 (Hampstead ByPass) Section B in Pender 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:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Public-Notices/>

Applicant: North Carolina Department of Transportation
Attn: Mr. Chad Kimes, PE, Division 3 Engineer
5501 Barbados Blvd
Castle Hayne, NC 28429

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: This leg of the Hampstead Bypass (R-3300B) begins just south of NC 210 in Hampstead and extends north to SR 1563 (Sloop Point Loop Road) located north of Hampstead and south of the Holly Shelter Game Lands, Pender County.

Project Area (miles): 6.916

Nearest Town: Hampstead

Nearest Waterway: Multiple Waterways (Winding Branch, Brick Yard Branch, Godfrey Creek, Little White Marsh, and White Marsh Branch)
River Basin: Cape Fear and White Oak
Latitude and Longitude: centrally located 34.3361 N, -77.7883 W

Existing Site Conditions

The majority of the land use within this section of the ByPass is Forest Land with the exception of the intersection areas at NC 210 and Hoover Road where some residential building exists.

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:

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

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.

Project History

In addition to R-3300B, there are two other sections associated with this project. A phased permit was issued in August 2017 where U-4751 Military Cutoff Extension was permitted with final design and Hampstead Bypass Section A & B were permitted with only preliminary design. This modification request updates the final impacts to the R-3300B section of this project. R-3300A will be permitted at a later date.

The August 2017 permit contained the following condition: The modification request for future R-3300 will be recirculated under Public Notice to gather relevant comments related to finalized hydraulic structures and other modifications realized during final plan preparation. This Notice has the final permit drawings that were not prepared at the time of the Record of Decision and initial permit authorization.

Project Description

The US 17 Hampstead Bypass will be constructed as a freeway mostly on new location. The US 17 Hampstead Bypass will connect to the Military Cutoff Road Extension at the existing US 17 Wilmington Bypass (currently under construction) and extend to existing US 17 north of Hampstead. Full control of access is proposed for the US 17 Hampstead Bypass. R-3300B (portion requested for authorization and the subject of this modification request) begins around NC 210 and extends to Sloop Point Loop Road, approximately 6.916 miles. R-3300A will be requested for authorization in future years.

Project Schedule for R-3300A & B

Section	Letting Type	Let Date
R-3300B	Traditional	September 2020
R-3300A	Traditional	2022

R-3300B will require the following impacts to complete construction:

Summary of Wetland and Stream Impacts for R-3300B

Section	Permanent Wetland (ac.)		Temporary Wetland (ac.)		Permanent Stream (lf.)	Temporary Stream (lf.)
	Riparian	Non- riparian	Riparian	Non- riparian		
B	16.743	55.428	0.672	0	5,780	489

Additionally, the project will require 1.510 acres of hand clearing that will result in permanent forest conversion (cutting and maintaining a mature forest into grassed or scrub shrub environment).

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 R-3300B. Using these surveyed features, final 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 its designs. Many of these strategies have been incorporated into Best Management Practice (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.
- 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 US Army Corps of Engineers on request.
- A wet detention basin and dry detention basin have been designed at the northern most interchange to provide stormwater quality and quantity control.
- Offsite and roadway drainage has been separated to the maximum extent practical. Roadway drainage systems were extended so outfalls discharge outside of wetland areas and into uplands, wherever possible.

- Toe protection was added to the toe of fill slopes, in lieu of lateral ditches, in wetland areas to minimize impacts to wetlands, where possible.
- Culverts in jurisdictional streams will be buried to promote fish passage. Constructed box culverts will be backfilled with native material excavated from the stream channel to provide natural substrate. Where multiple barrel culverts are proposed, sills and floodplain benches will be constructed to natural stream dimensions and profiles.
- Perpendicular stream crossings have been used where possible.
- 3:1 side slopes were designed throughout the project within jurisdictional areas with the exception of two locations of 4:1 slopes within an interchange (as a driver safety measure) and a 2:1 slope on the edge of a pond and at a culvert extension near Sloop Point Road.
- Equalizer pipes have been added to wetland crossings to maintain hydraulic connectivity to the maximum extent practicable.
- Temporary fill for detours within jurisdictional areas will be placed on geotextile fabric so natural ground elevation can be restored to preexisting conditions.

Compensatory Mitigation

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The applicant has made a request to the NC Division of Mitigation Services and will utilize purchased mitigation credits from the Northeast Cape Fear Umbrella Mitigation Bank to satisfy the mitigation needs.

Summary of the mitigation needs broken down into the two Hydrologic Unit Codes the project spans is below:

Summary of Mitigation Required for R-3300B

HUC ^a	Permanent Wetland (ac.)		Temporary Wetland (ac.)		Permanent Stream (lf.)	Temporary Stream (lf.)
	Riparian	Non-riparian	Riparian	Non-riparian		
CPF-07	13.314	45.918	0.646	0	4,372 ^b	421
WOK-02	3.429	9.510	0.026	0	1,120 ^c	68
Total	16.743 ^d	55.428 ^d	0.672	0	5,492	489

^a CPF-07 = Cape Fear 8-digit HUC 03030007; WOK -02 = White Oak 8-digit HUC 03020302.

^b Permanent stream impacts in CPF-07 are 4,538 linear feet minus 166 linear feet bank stabilization.

^c Permanent stream impacts in WOK-02 are 1,242 linear feet minus 122 linear feet of channel realignment.

^d An additional 0.814 acres of riparian wetlands (0.757 CPF-07 and 0.057 WOK-2) and 0.696 acres of non-riparian wetlands (0.014 CPF-07 and 0.682 WOK-2) will be permanently converted to maintained corridors by hand clearing.

Essential Fish Habitat

The Corps' 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.

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.

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 may affect federally listed endangered or threatened species or their formally designated critical habitat.

Consultation under Section 7 of the ESA has already 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.

Section 408

- ☒ There are no Corps Civil Works project(s) within or in the vicinity of the applicant's proposed project.

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. Unless NCDWR is granted a time review extension, 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 1, 2020 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.

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, May 8, 2020. Comments should be submitted to Brad Shaver, Project Manager, Wilmington Regulatory Field Office, 69 Darlington Avenue, Wilmington, North Carolina 28403 , at (910) 251-4611 or via email at brad.e.shaver@usace.army.mil.