



U.S. Department  
of Transportation

**Federal Highway  
Administration**

**FEDERAL HIGHWAY ADMINISTRATION**

North Carolina Division  
310 New Bern Avenue, Suite 410  
Raleigh, NC 27601  
HDA-NC



**DEPARTMENT OF THE ARMY**

Wilmington District, Corps of Engineers  
69 Darlington Avenue  
Wilmington, NC 28403-1343  
Regulatory Division/1145b

December 7, 2012

Mr. Terry R. Gibson, P.E.  
Chief Engineer  
North Carolina Department of Transportation (NCDOT)  
1536 Mail Service Center  
Raleigh, NC 27699-1536

SUBJECT: Action ID 2009-02240; STIP Nos. R-2721, R-2828, and R-2829

Dear Mr. Gibson:

This letter is in regards to the North Carolina Session Law 2011-7 (N.C.S.L. 2011-7) and its impact on the Triangle Expressway Southeast Extension project proposed by the North Carolina Turnpike Authority (NCTA). The law, which was passed on March 18, 2011, states that the Triangle Expressway Southeast Extension project shall not be located north of an existing protected corridor established by the North Carolina Department of Transportation (NCDOT) in 1995, except in the area of Interstate 40 East. Consequently, the law restricts the location of alternative corridors prior to the engineering and environmental analysis required by the National Environmental Policy Act (NEPA) and other Federal laws. Based on this restriction, Federal Highway Administration (FHWA) found it imperative that the process to advance the project be fully supported and concurred with by all Federal agencies. In an effort to do this, a series of meetings and discussions were held with multiple stakeholders to resolve issues and advance the project. Through these meetings, the following concerns have been identified by the Army Corps of Engineers (Corps) and FHWA regarding the approach and its ability to successfully advance the project under the requirements of NEPA and Section 404 (b)(1) Guidelines (40 CFR Part 230).

The NCDOT and NCTA, in consultation with Dawson and Associates, developed a Project Advancement Plan which included a proposal to evaluate refinements to the project purpose to reflect input from public involvement [possibly including local plan support and financial viability as elements of the NEPA project purpose] and an evaluation of additional potential alternatives. Both the Corps and FHWA have concerns that, for this project, including local plan support as a primary NEPA project purpose may inappropriately limit the study of a full range of Detailed Study Alternatives. The Corps believes that it would not support their requirement

under the 404 (b)(1) Guidelines (40 CFR Part 230) to analyze and objectively compare alternatives for this project that requires a Clean Water Act permit.

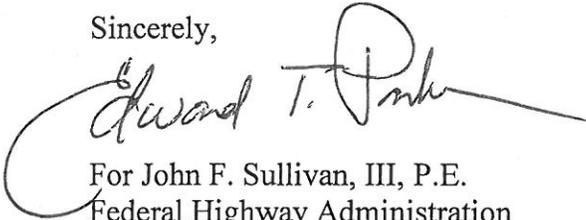
In the evaluation of alternatives, the Corps continues to believe that in regards to streams and wetlands, the Orange to Red to Green Alternative appears to be a less environmentally damaging alternative and should be included as an alternative to be analyzed in the Draft Environmental Impact Statement (DEIS). Please note that, at this time, the Corps is not able to make a decision on the practicability of any of the alternatives. That decision will not be made until after the Corps has issued a public notice (following publication of the DEIS) seeking comments from the public, Federal, State and local agencies, including any consolidated state viewpoint or written position of the Governor, on the Detailed Study Alternatives and the factors that the Corps considers in our public interest decision. The decision will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest, and will reflect the national concern for both protection and utilization of important resources. Factors, including the cumulative effects thereof, which may be relevant to the proposal that will be considered include, but are not necessarily limited to community cohesion, relocations, impacts to existing and proposed business centers, recreation, including parks, historic properties (Section 4(f) issues), water supply and conservation, ecological conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, 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. The Corps evaluation process for this project is consistent with the review for all other transportation projects in North Carolina, and with Section 404 of the Clean Water Act, including the 404 (b)(1) Guidelines (40 CFR Part 230).

Therefore, in consideration of the concerns above, the Corps and the FHWA believe the project can no longer move forward with the Project Advancement Plan and satisfy all Federal environmental requirements in a concurrent manner. As a result, the FHWA will withdraw the Notice of Intent (NOI), meaning we will no longer continue to develop the environmental impact statement and federally fund the project. Our withdrawal does not prevent the project from being reinitiated in the future. NCDOT or other applicant/sponsors may restart the project at any time by requesting a new NOI with sufficient support that all constraints have been relieved to allow compliance with NEPA.

Should you have any questions, please call George Hoops of the FHWA at (919) 747-7001 or Eric Alsmeyer of the Corps at (919) 554-4884, extension 23.

Sincerely,

Sincerely,



For John F. Sullivan, III, P.E.  
Federal Highway Administration  
Division Administrator



Steven A. Baker  
Colonel, U. S. Army  
District Commander

Copies Furnished:

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