

North Carolina Department of Transportation

NEPA/SEPA Consultation Form

STIP Project No.	HB-0001
WBS Element	49475.1.1
Federal Aid Project No.	NHPB-0001(156)

A. Project Description, Location, and Purpose:

As part of State Transportation Improvement Program (STIP) Project HB-0001, the North Carolina Department of Transportation (NCDOT) is proposing to replace the existing two-lane, 2.83-mile-long Lindsay C. Warren Bridge (Tyrrell County Bridge No. 7) on U.S. 64 over the Alligator River in Tyrrell and Dare Counties (NCDOT Division 1), North Carolina (refer to **Figure 1**, **Figure 2**, and **Figure 3**). The Alligator River Bridge Replacement project will replace the existing swing-span bridge with a modern two-lane, fixed-span, high-rise bridge on new location, just north of the existing bridge. The project is approximately 4.6 miles in length.

Constructed in 1960, the Lindsay C. Warren Bridge is classified as “structurally deficient” with a rating of 31.71 out of 100 possible points. The existing bridge is experiencing substantial deterioration due to its age and structural deficiencies resulting in the need for extensive and costly ongoing maintenance with mechanical replacement parts for the swing span that are not readily available and that typically require custom fabrication. This results in lengthy timeframes, as well as higher than normal costs for repair and jeopardizes the bridge’s ability to provide a reliable connection between Columbia, Manns Harbor, Manteo, and the Outer Banks.

The need for the project is demonstrated by the following summary of existing and projected conditions:

- Replacement is critical due to the age and structural deficiency of the bridge. The existing bridge is a 2.83-mile long, 2-lane bridge consisting of 343 spans with a moveable steel swing span. The bridge was constructed in 1960 and is classified as structurally deficient with a sufficiency rating of 31.71 out of a possible 100.
- The existing bridge requires costly, heavy maintenance on a regular basis and requires constant smaller maintenance activities to keep the swing mechanism operational.
- In November 2019, a \$17 million major rehabilitation project was completed on the bridge, consisting of several hundred pile jackets, concrete repair, deck surfacing, and a major mechanical overhaul of the swing mechanism and controls. Similar rehabilitation efforts will be needed within the next 7 years.
- Even with the major rehabilitation, NCDOT Division 1 staff is required to perform regular maintenance of the swing mechanism, which has a history of malfunction, resulting in closure of the bridge to vehicular travel. The mechanical parts, gears, and controls are not readily available and require custom fabrication with long lead times to acquire and replace.

The purpose of the proposed project is:

- To replace the existing two-lane, 2.83-mile-long Lindsay C. Warren Bridge, Tyrrell County Bridge No.7, carrying U.S. 64 across the Alligator River with a two-lane, high-rise, fixed-span bridge.

B. Consultation Phase: (Check one)

- Right-of-Way
 Construction
 Other:

C. NEPA/SEPA Class of Action Initially Approved as: (Check one)

- FHWA Class II (CE) 08/31/2021

Additional Notes: **Type III CE**

D. Changes in Proposed Action & Environmental Consequences:**Design Changes**

No major design changes have occurred since the completion of the Type III Categorical Exclusion (08/31/2021).

Changes in Environmental Impacts

Impacts were reevaluated based on the approved right of way plans (February 2023). A comparison of impacts between the preliminary plans (from the 08/2021 CE) and the approved right of way plans is shown below in Table 1.

Table 1: Potential Environmental Effects, HB-0001 Preferred Alternative

Resources	Impact Based on Preliminary Plans ¹	Impact Based on Right of Way Plans ²	Notes
Built Environment			
Underground Storage Tanks (UST)	0	0	Closest USTs are located at Alligator River Marina and will be avoided
Cultural Resources	1	1	The Lindsay C. Warren, Tyrrell County Bridge No. 7 (Determined Eligible for listing in the National Register of Historic Places) will be demolished as part of the project
Relocated Structures (Residences/Businesses/Non-Profit)	0	0	
Communication Tower	0	0	
Cemetery	0	0	
Managed Areas (acres)			
Alligator River Game Lands	0.03	0.01	

Table 1: Potential Environmental Effects, HB-0001 Preferred Alternative

Resources		Impact Based on Preliminary Plans ¹	Impact Based on Right of Way Plans ²	Notes
Alligator River National Wildlife Refuge		0.0	0.0	
Conservation Fund-owned land (Palmetto-Peartree Preserve)		1.2	0.66	Impact based on recorded deed from the land transfer between The Conservation Fund and NCDOT, dated December 6, 2022
Natural Environment (acres)				
Prime Farmland		8.7	8.7	All acres are classified "Prime if Drained." Preliminary screening of farmland conversion impacts resulted in a total score of 55 out of 160 points, which is less than the 60-point threshold established by NRCS; therefore, no further analysis of farmland conversion impacts is required
Soils Impacts (Including Estuarine Open Water)		19.8	19.8	
Plant Communities (excludes Maintained/Disturbed and Ag land)		16.5	16.5	
Canal Relocation		0.3	0.3	
Essential Fish Habitat		Yes	Yes	Alligator River
Coastal Area Management Act (CAMA) Resources (acres)				
Estuarine Public Trust Waters		0.1	0.02	
Inland Public Trust Waters		0.0	0.0	
Inland Public Trust Waters Shorelines (30-foot buffer)		0.0	0.0	
Estuarine Public Trust Waters Shorelines (75-foot buffer)		1.6	1.27	
Outstanding Resource Waters (ORW) Shorelines (575 feet)		0.0	0.0	The ORW-designated portion of the Alligator River is south of the existing bridge, ending at the bridge
Coastal Wetlands	Tyrrell County	0.09	0.07	
	Dare County	0.03	0.006	
Non-CAMA Resources (acres)				
Wetlands	Tyrrell County	8.6	6.09	Excludes Coastal Wetlands (listed above)
	Dare County	6.7	4.48	
Surface Waters	Tyrrell County	0.05	0.03	Includes Ponds and Tributaries
	Dare County	0.3	0.18	

Notes – ¹ – Impacts based on preliminary plans using a 25ft buffer from slopestakes² – Impacts based on right of way plans using a 10ft buffer from slopestakes

Threatened and Endangered Species Updates

The United States Fish and Wildlife (USFWS) Information for Planning and Consulting (IPaC) database was checked on 02/17/2023, and the following updates to Threatened and Endangered Species have occurred:

- **Tricolored bat** (*Perimyotis subflavus* – PESU) has been added to the Endangered Species Act (ESA) federally protected species list for the project as “Proposed Endangered”. On September 14, 2022, the U.S. Fish and Wildlife Service (USFWS) announced a proposal to list the tricolored bat as endangered under the ESA. Given the proposal to list PESU as Federally Endangered, NCDOT and its federal partners, the Federal Highway Administration (FHWA) and the United States Army Corps of Engineers (USACE) are initiating a conference programmatic consultation to address impacts to this species. USFWS has not provided an official effective listing date, but it is anticipated to occur in the second half of 2023. Upon listing, USFWS is expected to provide habitat descriptions and an area of influence/distribution range for PESU. When this information is provided, it will help to inform NCDOT’s determinations on habitat that could be impacted by NCDOT actions.
- **Roseate tern** (*Sterna dougallii dougallii*) was removed from the ESA federally protected species list for the project. No habitat is present within the project study area.

There also was the following update to the language for the programmatic agreement for the Northern long-eared bat (NLEB):

- The USFWS has issued a programmatic biological opinion (PBO) in conjunction with FHWA, USACE, and NCDOT for the NLEB (*Myotis septentrionalis*) in eastern North Carolina. The PBO covers the entire NCDOT program in Divisions 1-8, including all NCDOT projects and activities. Although this programmatic covers Divisions 1-8, The USFWS only considers NLEBs to be known or potentially found in 30 counties within Divisions 1-8. NCDOT, FHWA, and USACE have agreed to two conservation measures which will avoid/minimize mortality of NLEBs. These conservation measures only apply to the 30 current known/potential counties shown on Figure 2 of the PBO at this time. The programmatic determination for NLEB for the NCDOT program is **May Affect, Likely to Adversely Affect** (MALAA). The PBO will ensure compliance with Section 7 of the Endangered Species Act for ten years (effective through December 31, 2030) for all NCDOT projects with a federal nexus in Divisions 1-8, which includes Dare and Tyrrell Counties, where STIP No. HB-0001 is located.

E. Conclusion:

The above NEPA/SEPA documentation has been reevaluated (as required by either 23 CFR 771 or by NC General Statute Chapter 113A Article 1). It has been determined that the current proposed action is essentially the same as the original proposed action. Proposed changes, if any, are noted in Section D. It has been determined that anticipated social, economic, and environmental impacts were accurately described in the above referenced document(s) unless noted otherwise herein. Therefore, the original Administration Action remains valid.

F. Coordination

NCDOT personnel have discussed the current project parameters with qualified NCDOT representatives and FHWA (where applicable). The NCDOT Project Manager, John G. Conforti, hereby verifies the involvement of the following staff and the incorporation of their technical input:

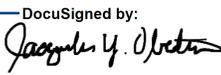
Design Engineer:	Faith Jahnke, PE	03/01/23
Environmental Specialist:	James Mason, PWS	03/01/2023
FHWA (if applicable):	Seth Wilcher	03/07/23
Other:		

G. Consultation Approval for NCDOT Project HB-0001

Prepared By:

3/14/2023

Date

DocuSigned by:

 E9437ABC1AF64D0...
 Jackie Obediente, PE
 Three Oaks Engineering, Inc.

Prepared For:

North Carolina Department of Transportation

Reviewed By:

3/15/2023

Date

DocuSigned by:

 33883EEFED0E44D3...
 Colin Mellor, Eastern Regional Team Lead
 North Carolina Department of Transportation – Environmental Policy Unit

Approved

In adherence with 23 CFR 771 (NEPA) or NC General Statute Chapter 113A Article 1 (SEPA), NCDOT approves this Consultation.

or

Certified

NCDOT staff certifies if FHWA signature was previously required or where changes have resulted in FHWA signature being required.

3/20/2023

Date

DocuSigned by:

 5A29A6045D6B43C...
 John G. Conforti, REM, Senior Project Manager
 North Carolina Department of Transportation

FHWA Approved: FHWA signature required for Type I(B) CE, Type II(B) CE, Type III CE, FONSI or ROD.

3/20/2023

Date

DocuSigned by:

 B34ADF0A202340B...
 for John F. Sullivan, III, PE, Division Administrator
 Federal Highway Administration

H. Project Commitments (as of 03/14/2023)

**Tyrrell and Dare Counties
Replace Bridge No. 7 over the Alligator River
Federal Project No. NHPB-0001(156)
WBS No. 49475.1.1
TIP No. HB-0001**

FEMA Floodplains and Floodways (NCDOT Division 1, NCDOT Hydraulics Unit)

- This project involves construction activities on or adjacent to a FEMA-regulated stream(s). Therefore, the Division will submit sealed as-built construction plans to the NCDOT Hydraulics Unit upon completion of project construction, certifying the drainage structure(s) and roadway embankment located within the 100-year floodplain were built as shown in the construction plans, both horizontally and vertically.

NC Floodplain Mapping Program (NCDOT Division 1, NCDOT Hydraulics Unit)

- NCDOT will coordinate with the NC Floodplain Mapping Program (FMP), the delegated state agency for administering FEMA's National Flood Insurance Program, to determine the status of the project with regard to applicability of NCDOT'S Memorandum of Agreement, or approval of a Conditional Letter of Map Revision (CLOMR) and subsequent final Letter of Map Revision (LOMR).

Public Involvement and Outreach (NCDOT Public Involvement, NCDOT Division 1, NCDOT PMU)

- Public engagement activities will be coordinated with NCDOT Public Involvement prior to completion of the final designs and right of way plans to ensure full and fair participation of all potentially affected communities in the transportation decision-making process.

A public involvement plan is being developed with public outreach anticipated to occur in the summer of 2023.

Dare County Schools (NCDOT Division 1, NCDOT Roadway, NCDOT Traffic Safety Unit)

- Alex Chandler, the Dare County School Transportation Director, reported in a telephone interview on June 2, 2021, that one school bus operates on U.S. 64 within the project limits, turning around prior to the bridge using a "vee" area at the Old Ferry Landing Road intersection with U.S. 64. One bus turns around twice each school day (morning and afternoon).

During the final design phase of the project, NCDOT will evaluate design revisions that accommodate a bus turnaround in the vicinity of Old Ferry Landing Road, as well as provisions for continued turnaround access during construction.

The bus turnaround at the requested location has been incorporated into the current design plans. The existing bus turnaround will be accommodated during the construction period.

GeoEnvironmental Sites of Concern (NCDOT GeoEnvironmental Unit)

- Sites of concern identified in the GeoEnvironmental Phase I Report should be reviewed by the NCDOT GeoEnvironmental Section once the Final Right of Way plans are complete to determine if Phase II Investigations and Right of Way Recommendations are necessary prior to right of way being acquired.

Final Right of Way plans were approved and distributed in 2/2023, including to the NCDOT GeoEnvironmental Unit. After reviewing the plans, the GeoEnvironmental Unit determined that a Phase II investigation is not required.

Outstanding Resource Water (NCDOT Division 1, NCDOT ECAP)

- The Alligator River has been designated as an Outstanding Resource Water (ORW) from the mouth of Northwest Fork to U.S. Highway 64, south of the existing bridge. Best Management Practices from Design Standards in Sensitive Watersheds will be employed.

Wildlife Crossings (NCDOT Division 1, NCDOT Roadway Design, NCDOT Roadside Environmental Unit)

- The proposed project includes two arched pipes (53”X41”), one located on each approach to the bridge, that are included to accommodate wildlife crossing the U.S. 64 corridor. Standard 4-to-5-foot directional fencing will be installed to direct wildlife to these pipes and to keep wildlife from crossing the roadway where it could potentially be struck by vehicular traffic. Herptile-excluding mesh will be attached to the fencing and will extend upwards a minimum of 2-feet and be buried 1-foot below ground to prevent small animals, reptiles, and amphibians from breaching the wildlife fence and entering the U.S. 64 travel way.

Fencing 10-feet in height will be provided in the area around the end of the bridge on both approaches, and along both the northern and southern sides of U.S.64, to prevent larger animals from gaining access to the U.S. 64 corridor. The fencing will extend underneath the bridge to provide a continuous length of fencing.

Access gates in the wildlife fencing will be installed at appropriately designated intervals to allow for maintenance and ease of access once the wildlife fencing is installed.

These wildlife mitigation measures were agreed on during the research and planning associated with improvements to U.S. 64 from Columbia to Manns Harbor (STIP R-2544/R-2545). The final right of way plans include the fence and gate access locations that were reviewed and approved by NCDOT Roadside Environmental, North Carolina Wildlife Resources Commission (NCWRC) and the US Army Corps of Engineers (USACE).

Anadromous Fish Habitat (NCDOT Division 1, NCDOT ECAP)

- The Alligator River north of the existing US 64 bridge (30-16-21.5) is classified as coastal Anadromous Fish Spawning Area (AFSA) under Marine Fisheries Commission (MFC) jurisdiction. The Alligator River south of the existing US 64 bridge (30-16-7) is classified as joint AFSA waters under the jurisdiction of MFC and the North Carolina Wildlife Resource Commission (WRC). A construction moratorium from February 1 to October 31 will apply to this project.

Based on coordination efforts between NCDOT and NC Division of Marine Fisheries during the preliminary engineering and planning phase of the project, the following in-water work moratorium will apply for this project:

- *For the entire project area, the in-water work moratorium will be:*
 - **July 15th – September 30th**
- *An additional in-water work moratorium for the deep-water channel, defined as “1000’ on either side of the U.S. Army Corps of Engineers’ navigational channel”, will be:*
 - **February 15th – June 30th**

Submerged Aquatic Vegetation (NCDOT Division 1, NCDOT ECAP)

- Submerged aquatic vegetation (SAV) surveys conducted in May 2021 did not identify SAV within the study area; however, because the project is currently unfunded for Right of Way and construction in the 2020-2029 STIP, re-surveys may be required at a future, appropriate time prior to the permitting and construction phase if a considerable amount of time elapses.

The project has received federal funding through a federal Multimodal Project Discretionary Grant (MPDG) from the U.S. Department of Transportation. Coordination will occur with Division 1 and NCDOT ECAP on whether updated SAV surveys are needed, based on the structure and foundation design of the bridge.

Estuarine and Ocean System Area of Environmental Concern (AEC) (NCDOT Division 1, NCDOT ECAP, NCDOT Structures Management Unit, NCDOT Hydraulics Unit)

- The proposed HB-0001 bridge structure is currently designed to span the public trust water shoreline buffers (30-foot and 75-foot buffer zones) on each side of the Alligator River. Because this bridge is a coastal/tidal bridge with a high criticality rating, additional structural, geotechnical, and 2D hydrodynamic modeling and design efforts are being conducted to address, among other items, sea level rise (2090), storm surge, coastal scour, and wave loads. These design efforts will further evaluate and assist in determining the optimal length for the new bridge structure and pier locations and will seek to avoid and minimize, to the extent practicable, impacts to adjacent jurisdictional wetlands, streams, and CAMA AECs.

West Indian Manatee (NCDOT Division 1, NCDOT ECAP)

- Construction contracts will require compliance with the US Fish & Wildlife Service's *Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters* (USFWS, 2003) to ensure no adverse effects occur to this species.

Atlantic and Shortnose Sturgeon (NCDOT Division 1, NCDOT ECAP)

- Conservation measures for the project to protect shortnose sturgeon include no hopper dredging and measures to minimize habitat degradation. Such measures include Best Management Practices (BMPs) involving use, storage, and disposal of construction/demolition materials to minimize short-term turbidity or water quality degradation during over-water construction over the Alligator River and during periodic maintenance. In addition, the project will incorporate BMPs to reduce habitat degradation from stormwater runoff pollution. The same conservation measures will be applied to the Atlantic sturgeon.

Black Rail (NCDOT Division 1, NCDOT ECAP)

- Informal Section 7 Consultation with USFWS will be required for the black rail, which has been assigned a Biological Conclusion of "May Affect, Not Likely to Adversely Affect." Consultation will occur and concurrence will be received from USFWS prior to project construction letting.

Red-cockaded woodpecker (NCDOT Division 1, NCDOT ECAP, NCDOT EPU)

- Formal Section 7 Consultation with USFWS will be required for the red-cockaded woodpecker. A Biological Assessment (BA) has been completed and was submitted to USFWS so that a Biological Opinion (BO) can be rendered for the species. The BA/BO process will be completed

prior to construction Let and any conservation measures recommended by USFWS in its BO will be employed on this project.

As compensation for impacts to Tyrell County (TYR) Cluster 63, one (1) credit will be debited from NCDOT's conservation credits at P3; post-project, 22 conservation credits will remain.

The USFWS issued the Biological Opinion (BO) in November of 2021. The following Monitoring and Reporting Requirements shall be adhered to (refer to Section 9.4 of the BO):

9.4. Monitoring and Reporting Requirements - *In order to monitor the impacts of incidental take, the FHWA must report the progress of the Action and its impact on the species to the Service as specified in the ITS (50 CFR §402.14(i)(3)). This section provides the specific instructions for such monitoring and reporting (M&R). These M&R requirements are mandatory. As necessary and appropriate to fulfill this responsibility, the FHWA must require any permittee, contractor, or grantee to accomplish the M&R through enforceable terms that the FHWA includes in the permit, contract, or grant document. Such enforceable terms must include a requirement to immediately notify the FHWA and the Service if the amount or extent of incidental take specified in this ITS is exceeded during Action implementation.*

M&R 1. Cavity Tree Update and Neighborhood-Level Analysis Reevaluation - *If the project construction has not been let by the end of 2023, an updated cavity tree survey within 0.5 mile of the project footprint must be conducted, and the status of all clusters evaluated for the neighborhood-level analysis must be reevaluated (i.e., inactive vs. active). The acquired data must be submitted to the Service to confirm if the level of incidental take authorized is still appropriate.*

Waterfront Access Marine Industry (WAMI) Fund Site (NCDOT Division 1, NCDOT ECAP, NCDOT EPU)

- In Tyrrell County on the south side of U.S. 64, a rock jetty with bulkhead, 10 boat slips, and unpaved parking is located within NCDOT right-of-way. This small facility supporting commercial fishing was constructed using funding from the Waterfront Access Marine Industry (WAMI) Fund. The WAMI program was established by the N.C. General Assembly to ensure existing and future waterfront-dependent uses. The WAMI site is operated by a waterman's association whose members pay dues to the association for access and maintenance of the site. The project is not anticipated to directly impact the facility; however, plans for demolition of the existing bridge have not yet been developed, and, therefore, proposed temporary construction easements are not yet known.

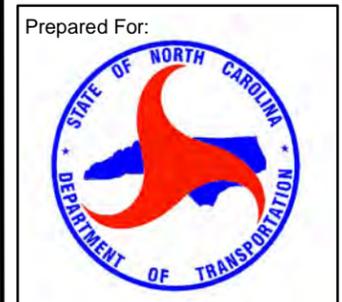
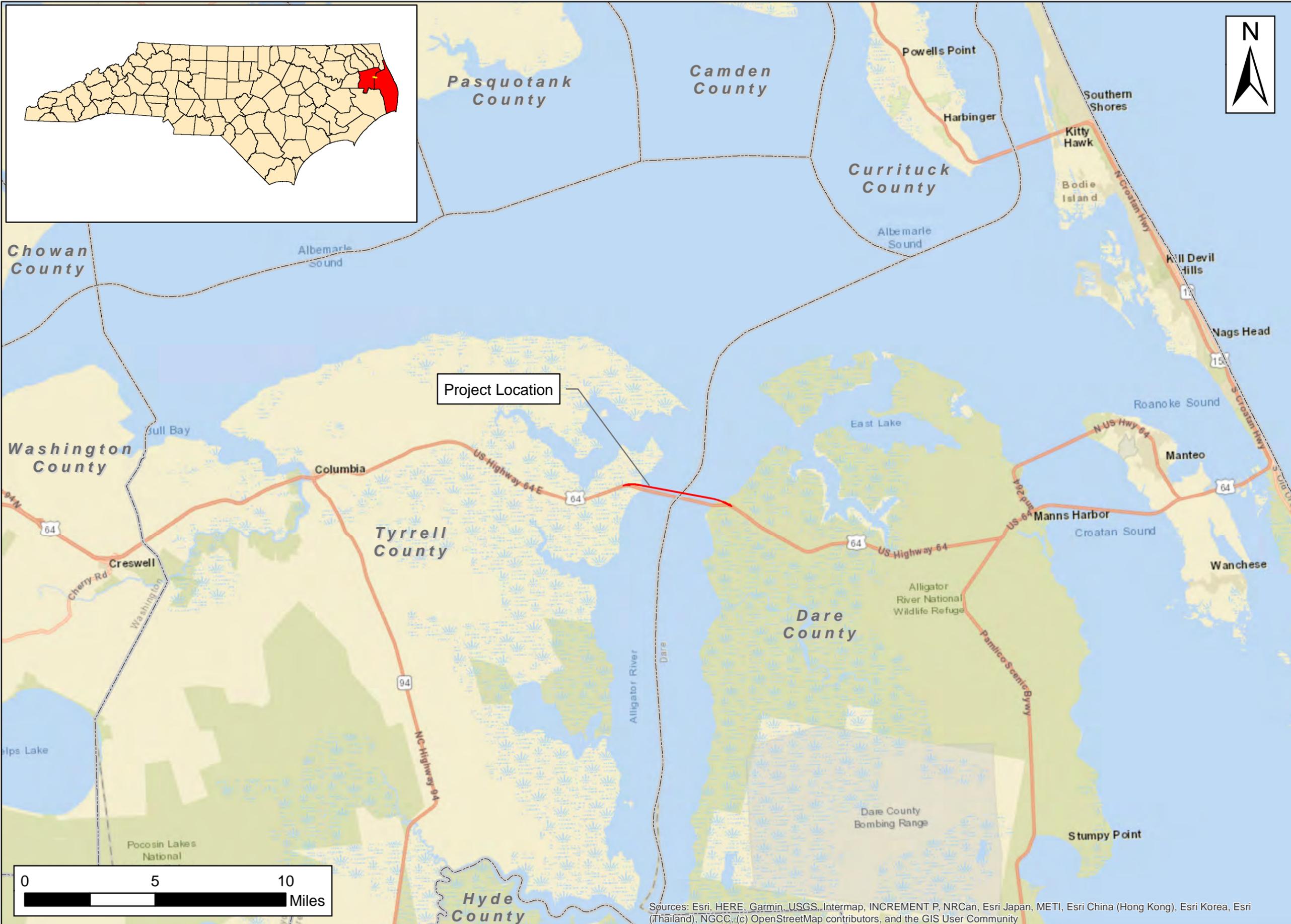
If demolition plans will impact the WAMI site, they should be coordinated with the waterman's association (Aron Gallop, 252-394-5185) prior to completion of final designs and right-of-way plans.

Section 106 Memorandum of Agreement (NCDOT HUE, NCDOT SMU, NCDOT PMU, Division 1)

- A Section 106 Memorandum of Agreement (MOA) has been signed by NCDOT, FHWA, and the state historic preservation office (SHPO) that addresses the impacts to the existing Lindsay C. Warren Bridge, which has been determined eligible for listing in the National Register of Historic Places. Mitigation efforts outlined in the MOA include two-bar metal rail for the replacement structure, four stand-alone decorative panels and support structures, and photographic recordation of the existing bridge. Continued coordination with SHPO on these mitigation measures will occur as the project moves into the final design phase.

As part of the mitigation efforts outlined in the MOA and coordinated with NC-HPO, NCDOT has contracted a local artist to develop concepts for the decorative statues, representing four animals

found in the Alligator River National Wildlife Refuge (ARNWR), that will be located in each of the four approach quadrants of the new bridge. Locations of these decorative statues are shown on the approved ROW plans, and NCDOT is currently working on developing the foundation designs for the statues. Coordination NC-HPO will continue to occur as the project moves into the final design phase.



**Replace U.S. 64
Tyrrell County Bridge
No. 7 over the
Alligator River.**

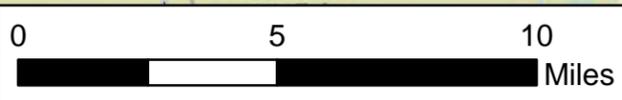
**HB-0001
Project
Design Map**

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WBS # 49475.1.1**

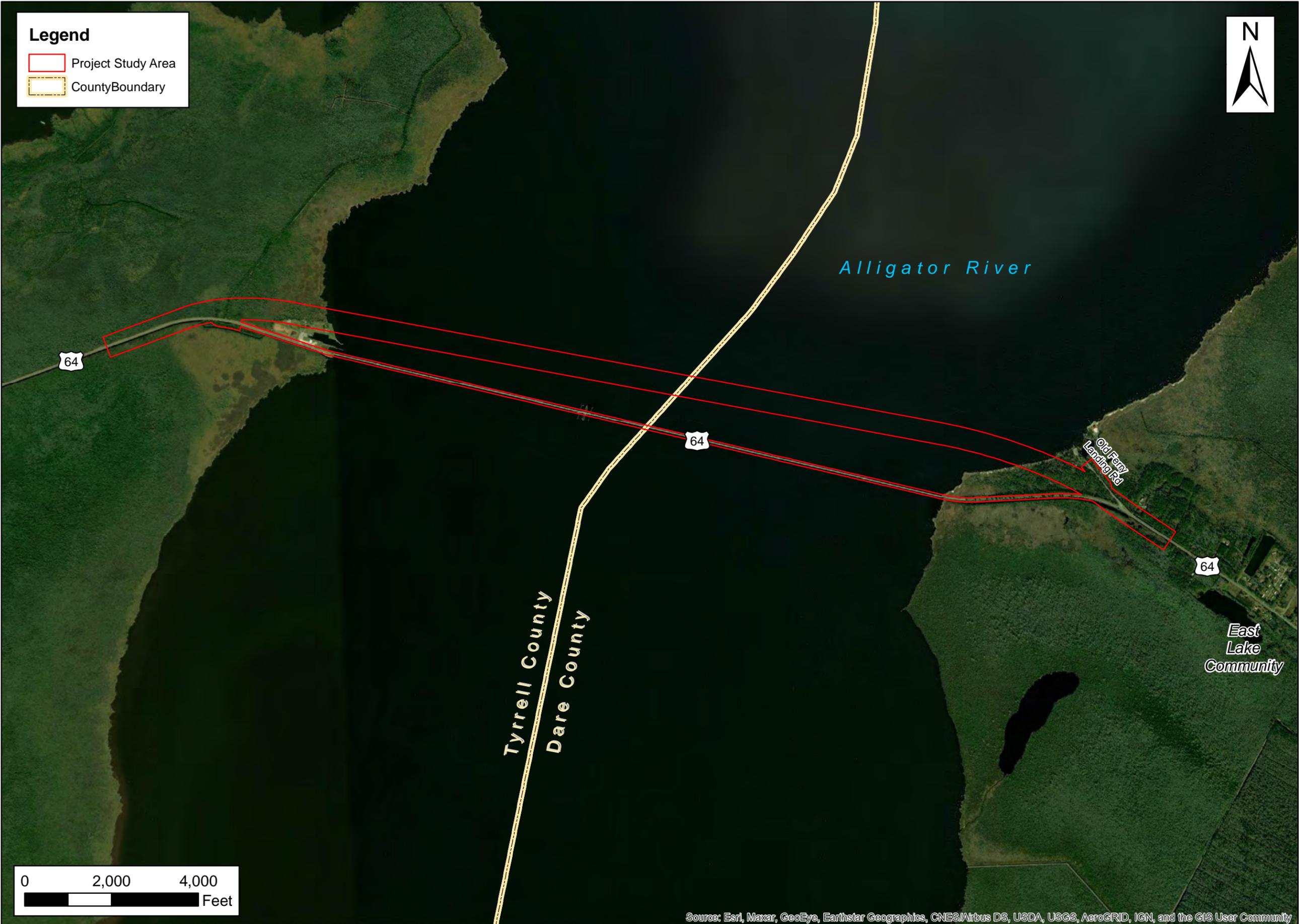
**Tyrrell & Dare
Counties**

Date:	July 2021
Scale:	As Shown
Job No.:	HB-0001
Drawn By:	CMR
Checked By:	JSM

**Figure
1**

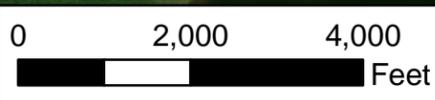


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



Legend

- Project Study Area
- CountyBoundary



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



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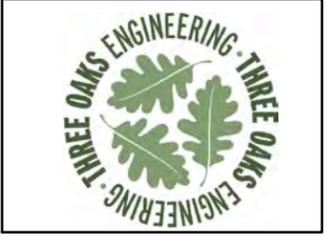
Tyrrell & Dare
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Date:	July 2021
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Drawn By:	CMR
Checked By:	JSM

Figure
2

Legend

- Project Study Area
- Parcel Boundary
- Figure 3 Sheet Index



**Replace U.S. 64
Tyrrell County Bridge
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Alligator River.**

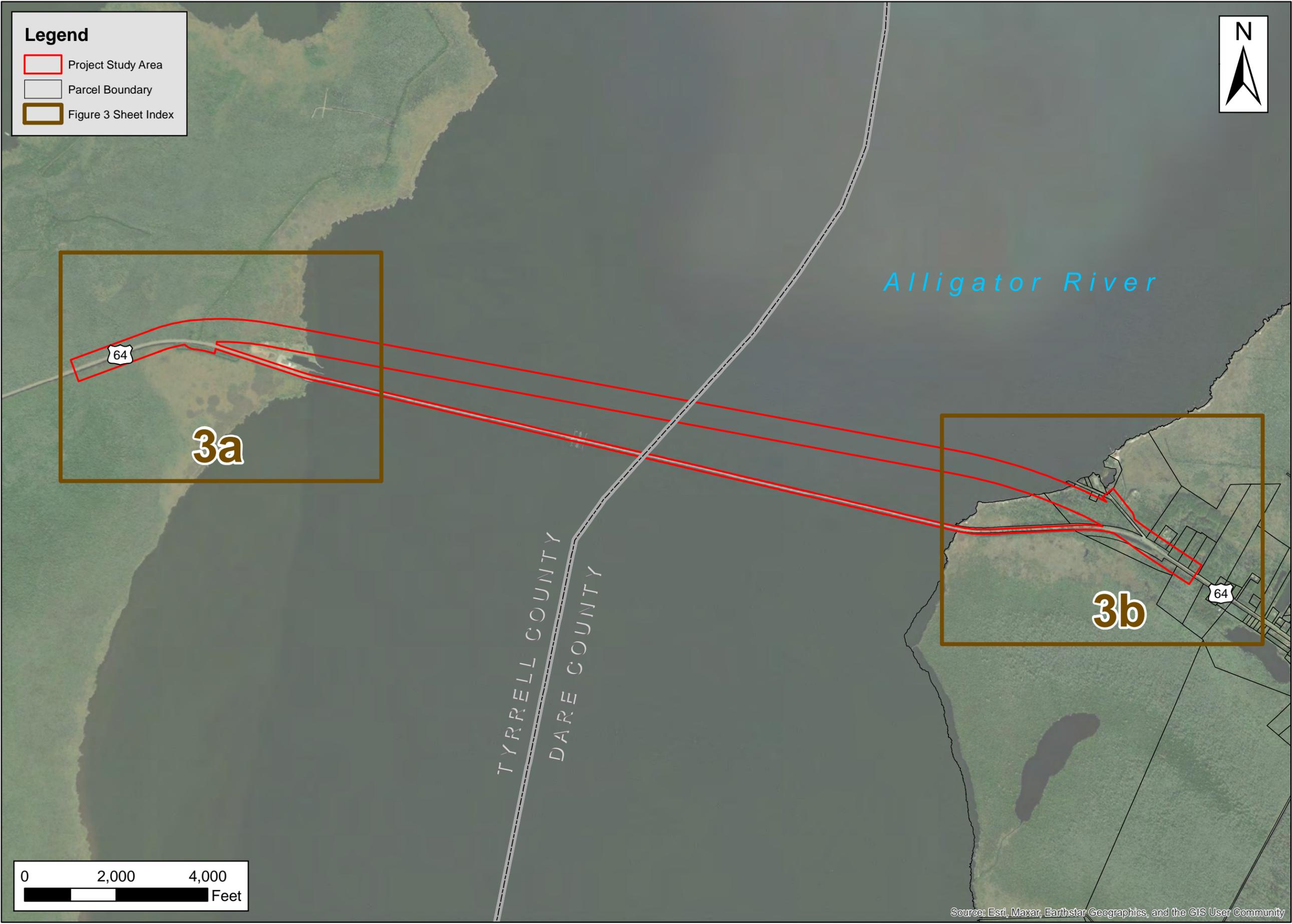
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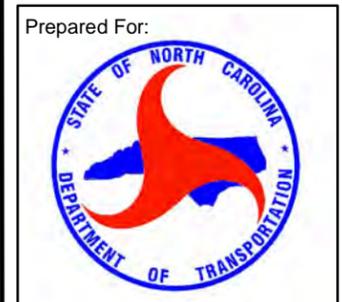
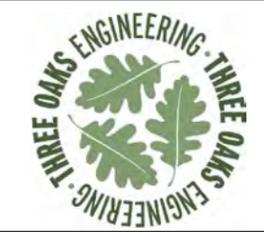
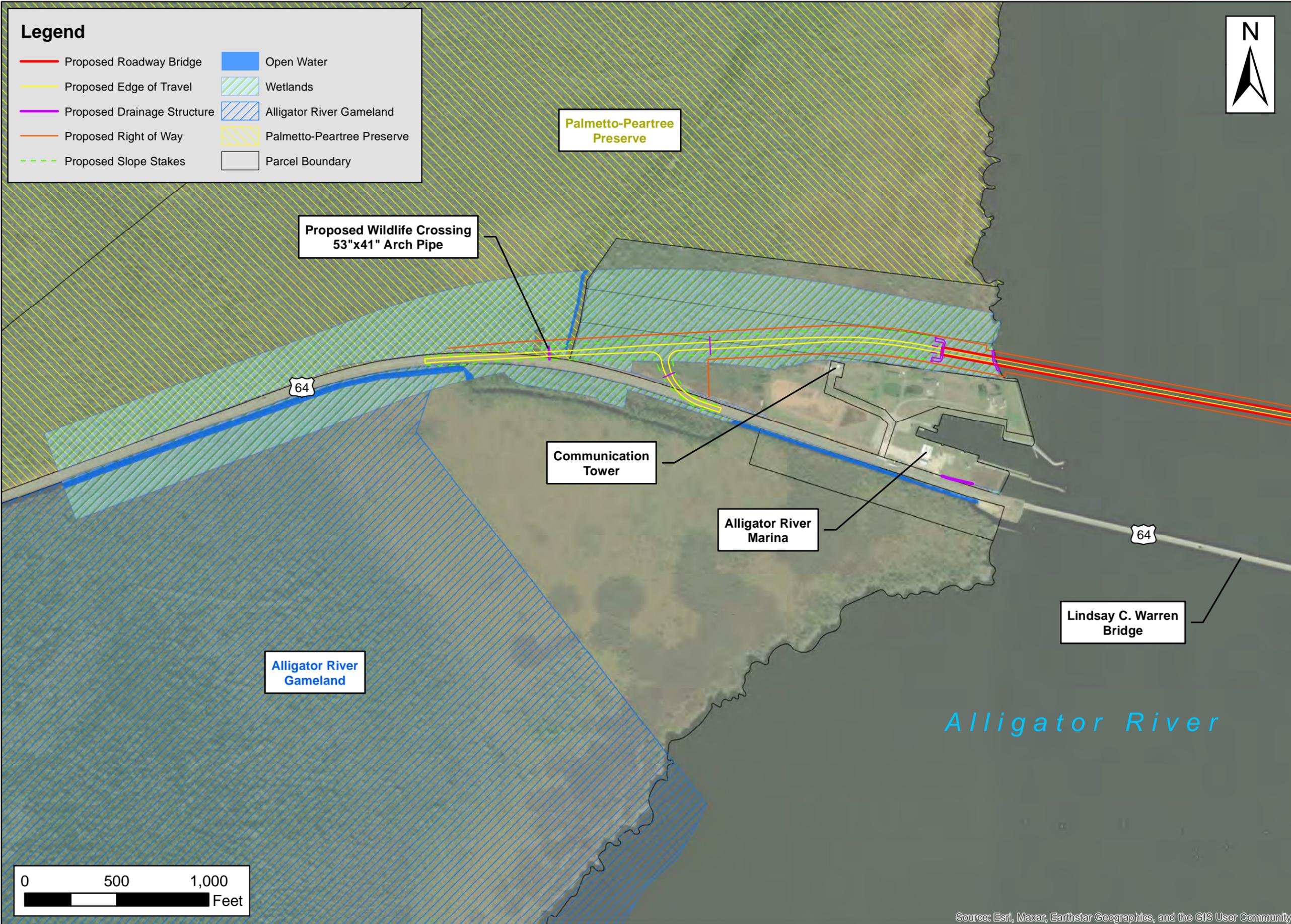
Tyrrell & Dare
Counties

Date:	February 2023
Scale:	As Shown
Job No.:	HB-0001
Drawn By:	CMR
Checked By:	JSM

Figure
3



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



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Tyrrell County

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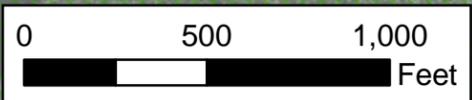
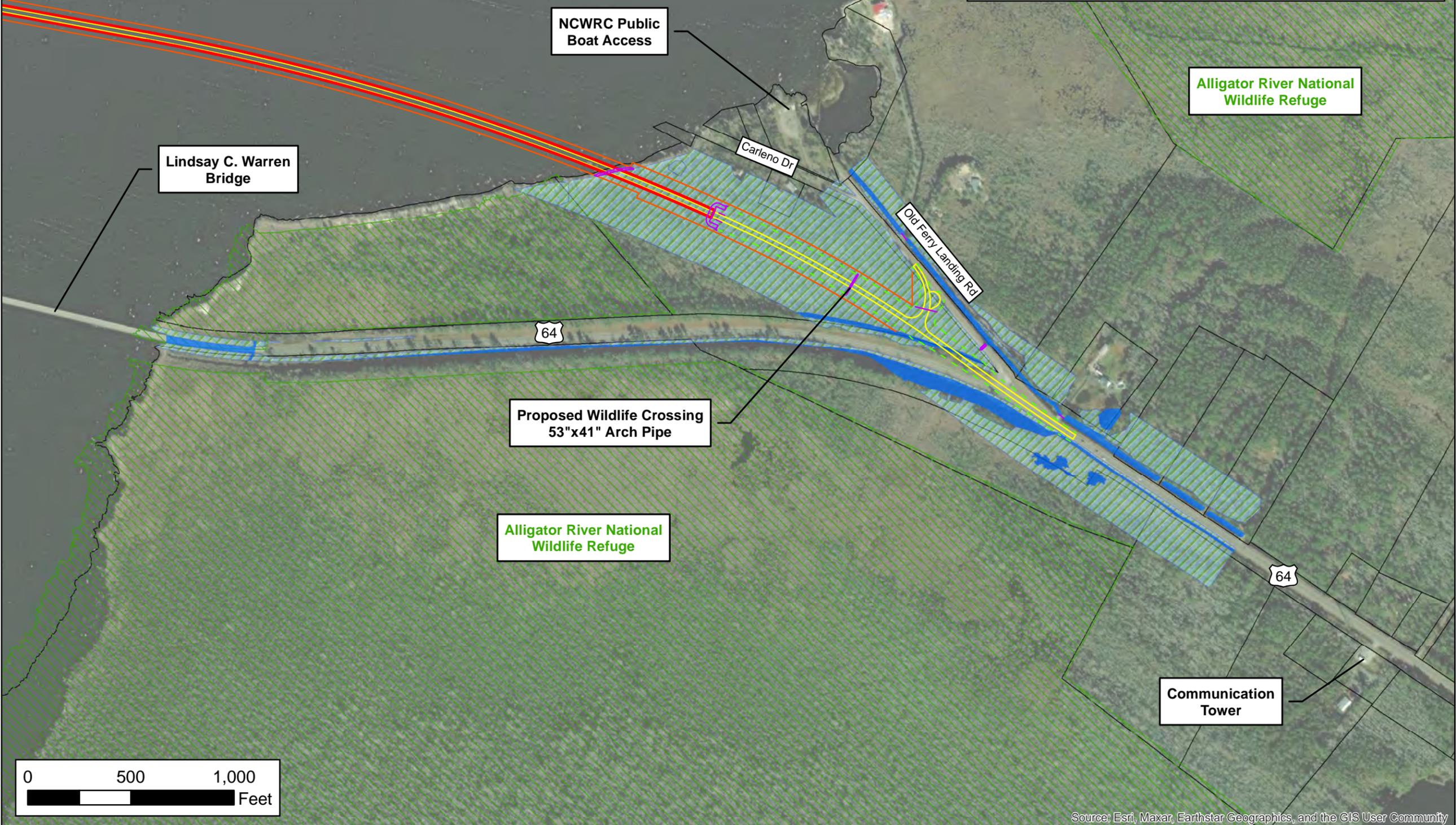
Figure
3a



Alligator River

Legend

- Proposed Roadway Bridge
- Proposed Edge of Travel
- Proposed Drainage Structure
- Proposed Right of Way
- Proposed Slope Stakes
- Open Water
- Wetlands
- Alligator River National Wildlife Refuge
- Parcel Boundary



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



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Dare County

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Figure
3b