

PROJECT SPECIAL PROVISIONS
PERMITS

The Contractor's attention is directed to the following permits which have been issued to the Department of Transportation by the authority granting the permit.

PERMIT

AUTHORITY GRANTING THE PERMIT

Dredge and Fill and/or
Work in Navigable Waters

U. S. Army Corps of Engineers

Water Quality

Division of Environmental Management, DENR
State of North Carolina

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the department and the Contractor has no responsibility in accomplishing those conditions.

Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-14 of the Standard Specifications and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
151 PATTON AVENUE
ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006

REPLY TO
ATTENTION OF:

Action Identification Number: 200430839

Permit Number: RGP 198200031
Henderson County

Permittee: North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699

Issuance: July 1, 2004

Project Manager: Angie Pennock

* Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
ASHEVILLE REGULATORY FIELD OFFICE
151 PATTON AVENUE, ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action Id. 200430839

County: Henderson

Quad: Hendersonville

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property owner: North Carolina Department of Transportation

Address: 1548 Mail Service Center
Raleigh, North Carolina 27699

Telephone: (919) 733-7844

Cc (without enclosures): Mr. John Hennessy
Division of Water Quality
North Carolina Department of
Environment and Natural Resources
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

Decimal Degrees: North: 35.3111814° West: 82.4610910°

Size and Location of project (water body, road name/number, town, etc.): The project site is located at Bridge No. 356 on Kanuga Road (SR 1127), over Wash Creek, in Hendersonville, Henderson County, North Carolina.

Description of Activity: The excavation of and discharge of fill material into approximately 128 linear feet of perennial stream and 0.019 acre of open waters for the replacement of Bridge No. 356 with a triple barrel, 10.0 X 9.0-foot reinforced concrete box culvert system. Temporary impervious dikes and associated ponding and dewatering will result in temporary impacts for rerouting the stream channel during construction. The stream will be routed to the west while the eastern culvert is installed and then will be routed through the eastern culvert while the remainder of the structure is completed.

Applicable Law: Section 404 (Clean Water Act, 33 U.S.C. 1344)
(check all that apply) Section 10 (River and Harbors Act of 1899)

Authorization:
General Permit No. 198200031: NCDOT Bridges

Special Conditions

- a) All work authorized by this permit must be performed in strict compliance with the plans received in this office on April 1, 2004, which are a part of this permit. Any modification to these plans must be approved by the US Army Corps of Engineers (USACE) prior to implementation.
- b) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.
- c) Except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as

to impair normal flows and circulation patterns within waters or wetlands or to reduce the reach of waters or wetlands.

- d) All temporary fill will be removed from the creek and disposed of on uplands outside of the floodplain by the expiration date of this permit.
- e) All conditions of the attached North Carolina Wildlife Resources Commission letter of June 1, 2004 are hereby incorporated as special conditions of this permit.

Your work is authorized by this Regional General Permit (RGP) provided it is accomplished in strict accordance with the attached conditions and your submitted plans. If your activity is subject to Section 404 (if Section 404 block above is checked), before beginning work you must also receive a Section 401 water quality certification from the N.C. Division of Environmental Management, telephone (919) 733-1786. For any activity within the twenty coastal counties, before beginning work you must contact the N.C. Division of Coastal Management, telephone (919) 733-2293.

Please read and carefully comply with the attached conditions of the RGP. Any violation of the conditions of the RGP referenced above may subject the permittee to a stop work order, a restoration order, and/or appropriate legal action.

This Department of the Army RGP verification does not relieve the permittee of the responsibility to obtain any other required Federal, State, or local approvals/permits. The permittee may need to contact appropriate State and local agencies before beginning work.

If there are any questions regarding this authorization or any of the conditions of the Regional General Permit, please contact the Corps Regulatory Official specified below.

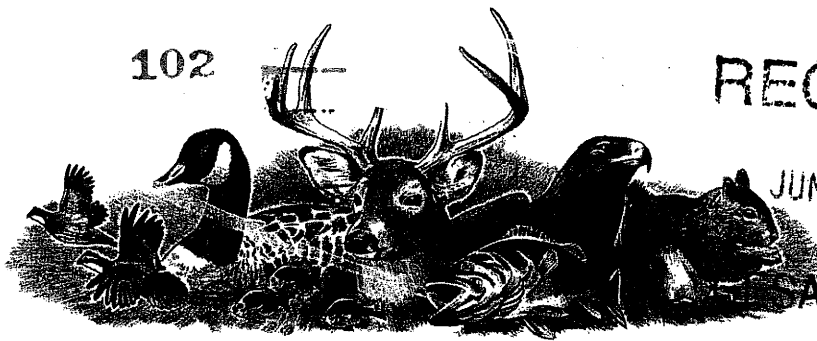
Date: 1 July 2004

Corps Regulatory Official: Angie Pennock *Angie Pennock* Telephone No.: (828) 271-8960 ext. 226

Expiration Date of Verification: 1 July 2006

SURVEY PLATS, FIELD SKETCH, WETLAND DELINEATION FORMS, PROJECT PLANS, ETC., MUST BE ATTACHED TO THE FILE COPY OF THIS FORM, IF REQUIRED OR AVAILABLE.

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RECEIVED

JUN 01 2004

AW-CO-RA

☒ North Carolina Wildlife Resources Commission ☒

Charles R. Fullwood, Executive Director

TO: Steven W. Lund, NCDOT Coordinator
Asheville Regulatory Field Office, USACE

FROM: Marla Chambers, Highway Projects Coordinator *Marla Chambers*
Habitat Conservation Program, NCWRC

DATE: May 28, 2004

SUBJECT: Review of a Categorical Exclusion document and Section 404 Permit application by NCDOT to replace Bridge No. 356 over Wash Creek on SR 1127 (Kanuga Road), Henderson County. TIP No. B-3475.

North Carolina Department of Transportation (NCDOT) has submitted a Section 404 application to the U.S. Army Corps of Engineers (USACE). Staff biologists with the North Carolina Wildlife Resources Commission (NCWRC) have reviewed the information provided. These comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4332(2)(c)) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d).

The NCDOT proposes to replace Bridge No. 356 over Wash Creek on SR 1127 (Kanuga Road) in Hendersonville with a triple barrel (3 @ 10 feet by 9 feet) reinforced concrete box culvert. Permanent channel impacts total 128 linear feet. The project is in an urban setting with a very high percentage of impervious surfaces. Bicycle accommodations will be included and sidewalks will be provided on both sides of the bridge.

Wash Creek is Class "B" waters and flows to Mud Creek approximately 0.7 miles downstream. Further downstream Mud Creek joins the French Broad River, where the slippershell mussel (*Alasmidonta viridis*), state Endangered, and the creeper (*Strophitus undulatus*), state Threatened, are present. Also, recent mussel surveys suggest that the Appalachian elktoe (*Alasmidonta raveneliana*), federal and state Endangered, may be re-colonizing the upper French Broad River in this vicinity. Despite the degraded condition of Wash and Mud Creeks, we recommend sediment and erosion control measures for sensitive watersheds for this project, as suggested in the Categorical Exclusion document, to reduce impacts downstream.

We strongly encourage NCDOT and local authorities to use low impact development techniques (see www.lowimpactdevelopment.org for information) to manage stormwater quantity and quality in developed areas and there should be no net gain in flood stage. We would also like to encourage the use of non-impervious materials to construct sidewalks and other facilities, particularly in developed watersheds with a high percentage of impervious surfaces. Numerous studies have shown that when 10–15% of a watershed is converted to impervious surfaces, there is a serious decline in the health of receiving waters (Schueler 1994) and the quality of fish habitat and wetlands are negatively impacted (Booth 1991, Taylor 1993).

In addition, we can concur with the permit issuance if the following conditions are implemented:

1. Sediment and erosion control measures shall adhere to the design standards for sensitive watersheds (15A NCAC 4B .0124 (a)-(d)) and be strictly maintained until project completion to avoid impacts to downstream aquatic resources. Temporary or permanent herbaceous vegetation should be planted on all bare soil as soon as possible and within 10 days of ground disturbing activities to provide long-term erosion control. Tall fescue should not be used in riparian areas. We encourage NCDOT to utilize onsite vegetation and materials for streambank stabilization when practicable. Erosion control matting should be used in riparian areas, instead of straw mulch and well anchored with 12” staples or 12” wooden survey stakes.
2. Discharge of materials into the stream from demolition of the old bridge should be avoided as much as practicable. Any materials that inadvertently reach the stream should be removed.
3. Culverts that are 48-inch diameter or larger should be placed with the floor of the barrel approximately 12 inches below the stream bottom to allow natural stream bottom materials to become established in the culvert following installation and to provide aquatic life passage during periods of low flow. This may require increasing the size of the culvert to meet flow conveyance requirements. These measurements must be based on natural thalweg depths.
4. Culverts should be designed so that one barrel, of adequate size, will carry the base flow, and the others will carry stormwater. Barrels other than the base flow barrel should be placed on or near bankfull or floodplain bench elevation (similar to Lyonsfield design). This may be accomplished by utilizing sills on the upstream end to restrict or divert flow to the base flow barrel.
5. The design of sills and baffles must be compatible with recommendations 3 and 4 above.
6. The natural dimension, pattern, and profile of the stream above and below the crossing should not be modified by widening the stream channel or changing the depth of the stream.

7. Removal of vegetation in riparian areas should be minimized. Native trees and shrubs should be planted along the stream banks to reestablish the riparian zone and to provide long-term erosion control.
8. Grading and backfilling should be minimized, and tree and shrub growth should be retained if possible to ensure long term availability of shoreline cover for fish and wildlife. Backfill materials should be obtained from upland sites.
9. Riprap should be minimized and installed in a manner so as not to interfere with aquatic life passage during low flow conditions. Riprap placed for bank stabilization should be limited to the stream bank below the high water mark, and vegetation should be used for stabilization above the high water elevation.
10. Stormwater, should be directed to buffer areas or retention basins and should not be routed directly into streams.
11. If concrete will be used during construction, work must be accomplished so that wet (uncured) concrete does not contact surface waters. This will lessen the chance of altering the water chemistry and causing a fish kill.
12. Discharging hydroseeding mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is strictly prohibited.
13. Heavy equipment should be operated from the bank rather than in the stream channel whenever possible in order to minimize sedimentation and reduce the likelihood of introducing other pollutants into the stream. All mechanized equipment operated near surface waters should be inspected and maintained regularly to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids or other toxic materials.

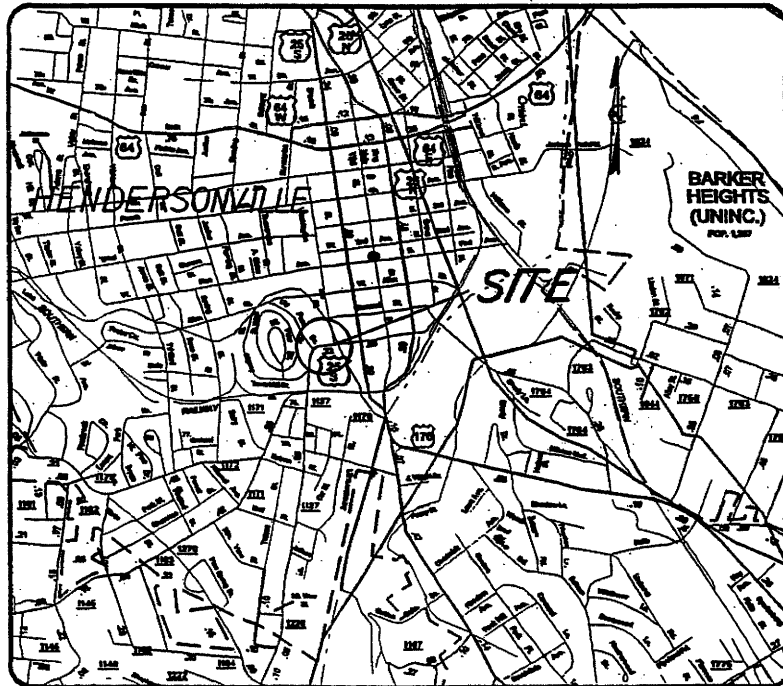
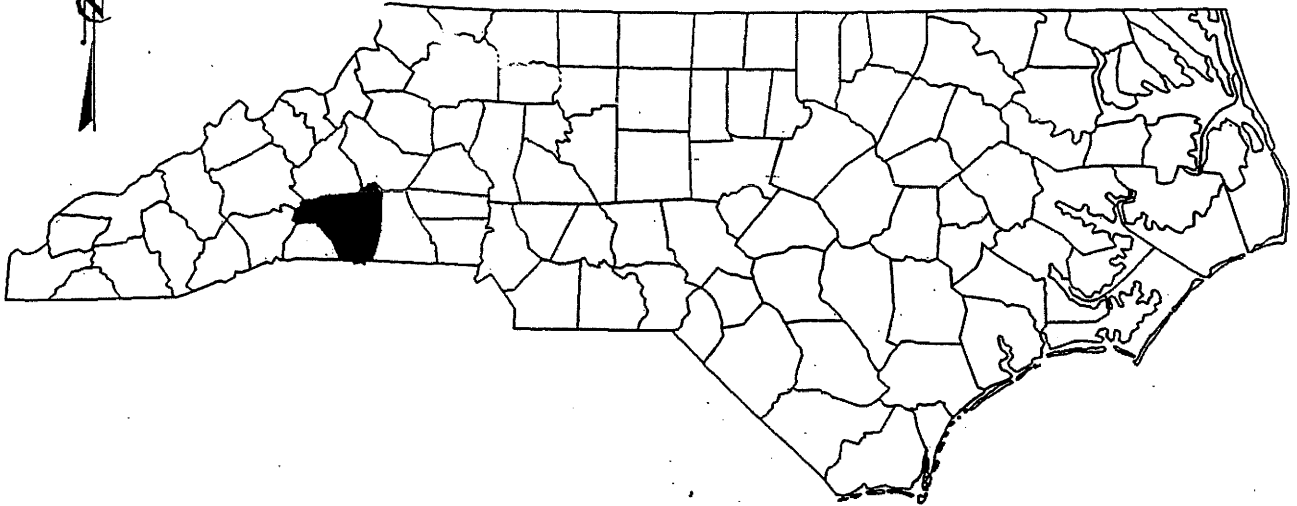
Thank you for the opportunity to review and comment on this project. If you have any questions regarding these comments, please contact me at (704) 485-2384.

Literature Cited:

- Booth, D. 1991. Urbanization and the natural drainage system-impacts, solutions, and prognoses. *Northwest Environmental Journal*. 7(1):93-118.
- Schueler, Tom. 1994. The Importance of Imperviousness. *Watershed Protection Techniques*. 1:3 (pp100-111).
- Taylor, B.L. 1993. The influences of wetland and watershed morphological characteristics and relationships to wetland vegetation communities. Masters thesis. Dept. of Civil Engineering. University of Washington. Seattle, WA.

cc: Marella Buncick, USFWS
Brian Wrenn, NCDWQ
Sarah McRae, NCNHP

NORTH CAROLINA



VICINITY MAPS

NCDOT

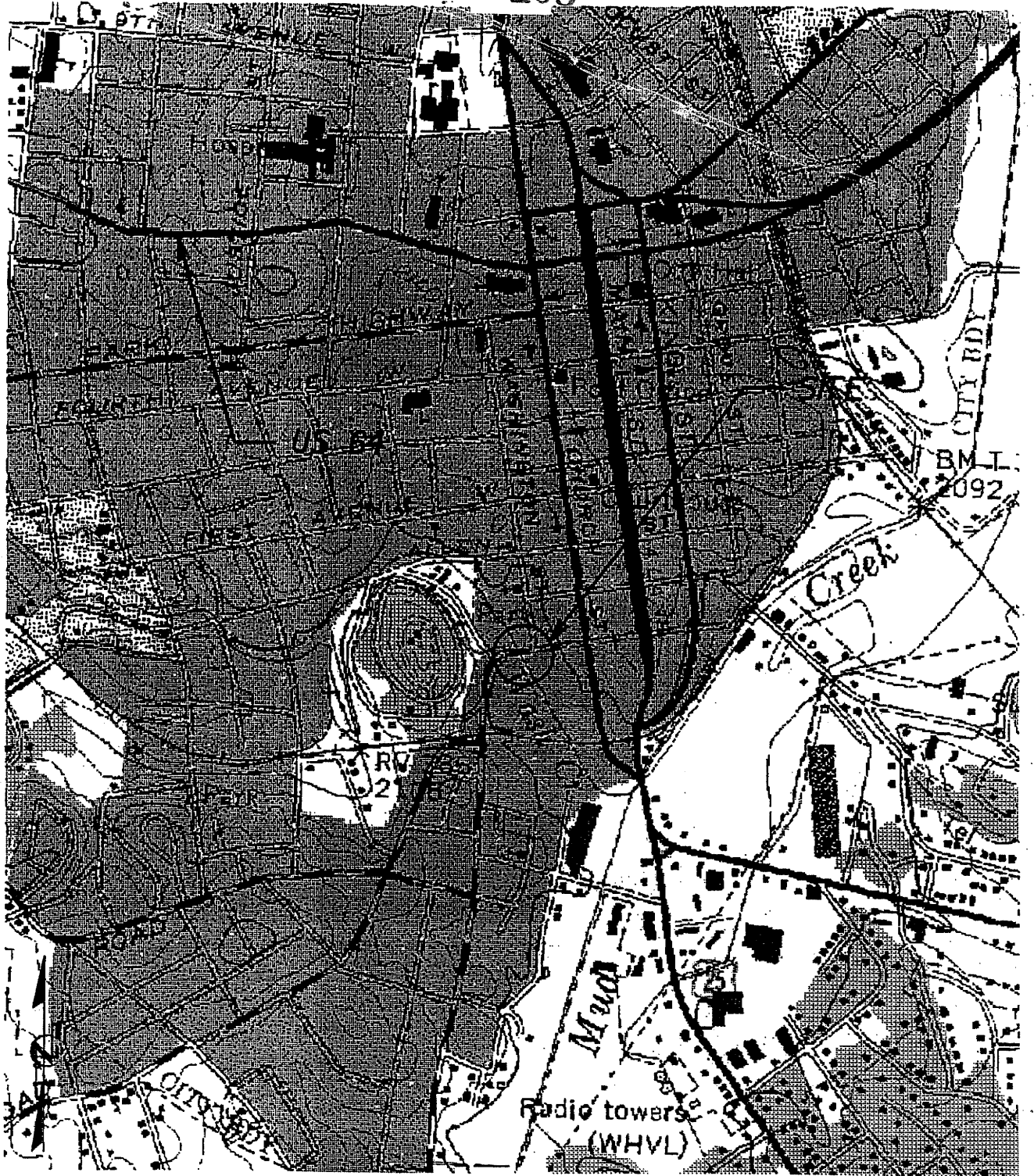
DIVISION OF HIGHWAYS

HENDERSON COUNTY

PROJECT: 8.2951601 (B-3475)

BRIDGE NO. 356 ON SR 1127

OVER WASH CREEK



SITE
MAP

NCDOT

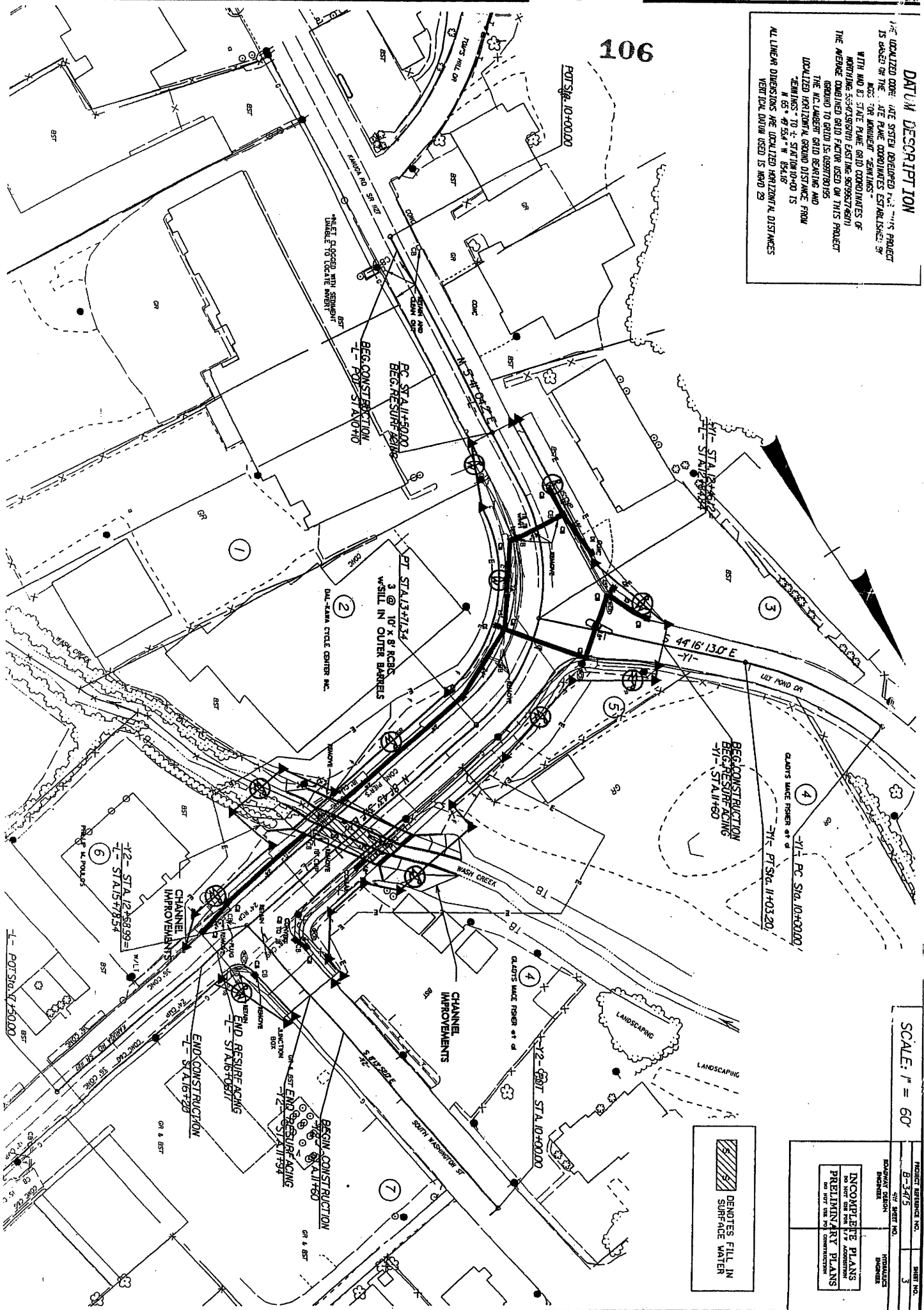
DIVISION OF HIGHWAYS
 HENDERSON COUNTY
 PROJECT: 8.2951601 (B-3475)

BRIDGE NO. 356 ON SR 1127
 OVER WASH CREEK


DATUM DESCRIPTION

THE LOCALIZED DATE DATE SYSTEM OBTAINED FOR THIS PROJECT IS BASED ON THE STATE PLANE COORDINATES ESTABLISHED BY THE MISSOURI STATE PLANE AND COORDINATES OF NORTHING 5528378.00M, EASTING 899927.00M. THE MERIDIAN CORRECTION FACTOR USED ON THIS PROJECT IS 0.999999999. THE MEAN SEA LEVEL BEARING AND LOCALIZED HORIZONTAL GROUND DISTANCE FROM STATION TO STATION IS 0.999999999. LOCALIZED HORIZONTAL DISTANCES VERTICAL DISTANCES ARE LOCALIZED HORIZONTAL DISTANCES VERTICAL DISTANCES USED IS 0.999999999.

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SCALE: 1" = 60'

 DENOTES FILL IN SURFACE WATER

PROJECT REFERENCE NO.	B-3475	SHEET NO.	3
DESIGNER	INCOMPLETE PLANS	DATE	NO DATE FOR THIS PROJECT
PREPARED BY	PRELIMINARY PLANS	DATE	NO DATE FOR THIS PROJECT
CHECKED BY		DATE	

100' GROUND SPACING WITH 50' SPACING
100' GROUND SPACING WITH 50' SPACING

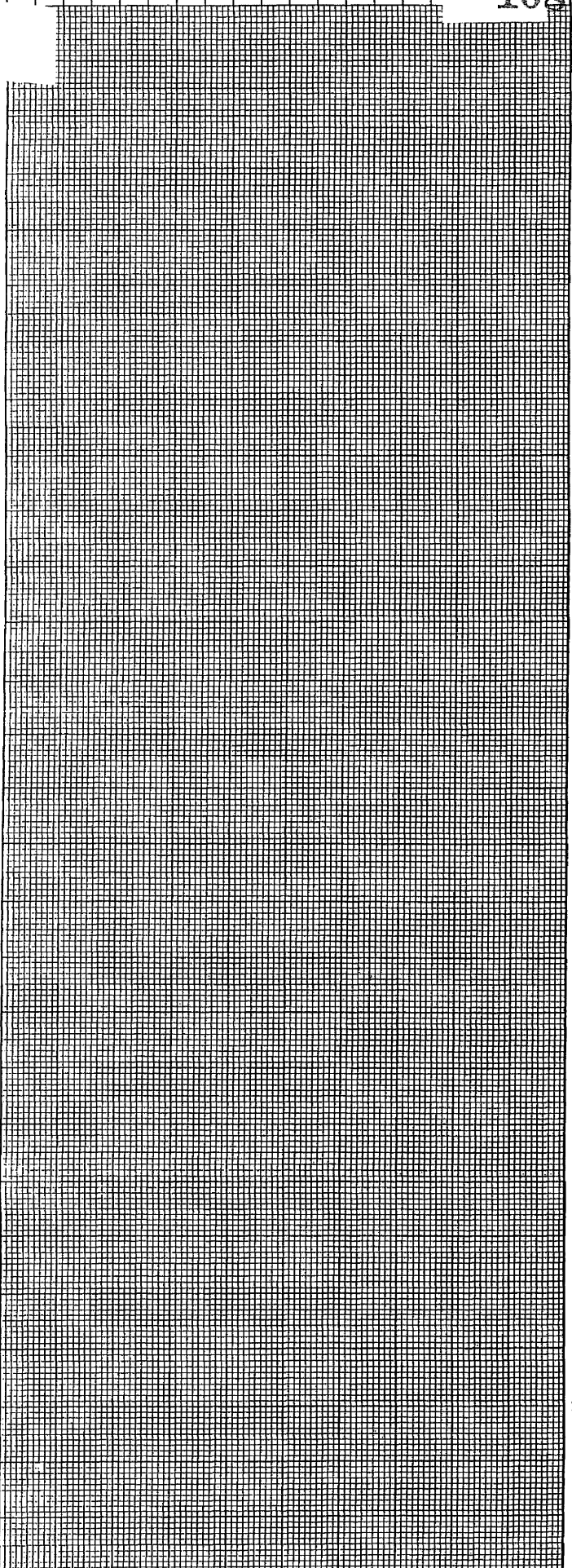
100' GROUND SPACING WITH 50' SPACING

PROJECT REFERENCE NO. B-3472
ISSUED BY: RAYMOND GARDIN
ENGINEER
DATE: 5/28/72
SHEET NO. 5
CONSTRUCTION

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

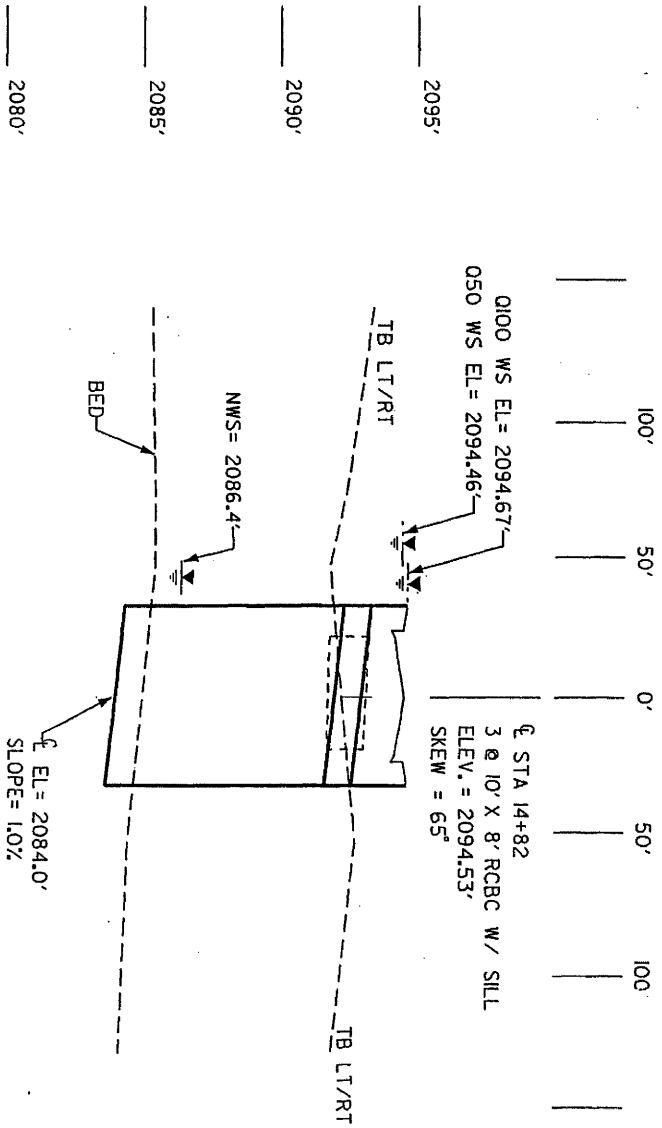
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PROJECT NUMBER: 101	SHEET NO.
B-1662	6
DESIGNED BY: [blank]	CHECKED BY: [blank]
DRAWN BY: [blank]	DATE: [blank]

- (1) A map indicating the location of the work.
- (2) Plans of the proposed work showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the normal/high water elevation contours.
- (3) A brief discussion of the affected aquatic resources, including streams and wetlands. The discussion shall include the identification and types of vegetation present.
- (4) Approximate commencement and completion dates.
- (5) A description of methods to be employed to avoid and/or minimize permanent and temporary impacts to aquatic resources caused by the proposed work.
- (6) Plans, including timetables and techniques, for construction, stabilization and removal of all unavoidable temporary fills.
- (7) Names and addresses of adjoining property owners.

b. In the case of fills of one acre or less, including permanent approach fills, detour fills and fills associated with culvert installation, the Corps of Engineers' Project Manager will determine, after appropriate onsite visits and review of plans, if the impacts on aquatic resources, including streams and wetlands, are likely to be such as to require review by Federal and State agencies. If it is determined that impacts are minimal or can be made minimal by changes agreed to by the applicant, a letter of authorization to proceed will be provided. If it is determined that review by Federal and State agencies is necessary to fully evaluate impacts, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment and Natural Resources (NCDENR). These agencies will furnish comments to the Wilmington District Engineer within thirty (30) days.

c. In cases of fills greater than one acre, copies of all plans and materials will be forwarded to the USFWS, the NMFS, the EPA and the NCDENR. These agencies will furnish comments to the Wilmington District Engineer in thirty (30) days. In cases of land disturbing activities comprising more than one acre, a Sedimentation/Erosion Control Plan will be filed with the North Carolina Division of Land Resources, Land Quality Section, thirty (30) days prior to commencing work.

d. Where work is proposed within the twenty (20) coastal counties, as defined by the North Carolina Division of Coastal Management, the applicant shall forward a copy of the pre-construction notification to:

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Regional General Permit No. 198200031
Name of Permittee: General Public
Effective Date: September 1, 2003
Expiration Date: August 31, 2008

**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT**

A regional general permit (RGP) to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and re-issued by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE CONSTRUCTION, MAINTENANCE AND REPAIR OF BRIDGES, INCLUDING COFFERDAMS, ABUTMENTS, FOUNDATION SEALS, PIERS, APPROACH FILLS, DETOUR FILLS, BOX CULVERT INSTALLATION AND TEMPORARY CONSTRUCTION AND ACCESS FILLS, IN WATERS OF THE UNITED STATES AS PART OF WORK CONDUCTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) OR OTHER STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE STATE OF NORTH CAROLINA.

1. Special Conditions.

a. Written confirmation that the proposed work complies with this RGP must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the Wilmington District Engineer a pre-construction notification with the following information:

National Marine Fisheries Service
 101 Pivers Island Road
 Beaufort, North Carolina 28516

The counties in which this condition applies are:

Beaufort	Hertford	Bertie	Hyde	Brunswick
New Hanover	Camden	Onslow	Carteret	Pamlico
Chowan	Pasquotank	Craven	Pender	Currituck
Perquimans	Dare	Tyrrell	Gates	Washington

e. In the event that any Federal agency maintains an objection or any required State authorization is outstanding, no notice to proceed will be given until objections are resolved and State authorizations are issued.

f. No work will proceed until after the applicant has received written notice to proceed from the Wilmington District Engineer. This notice may include additional conditions and/or restrictions. Copies of the notice to proceed will be furnished to the USFWS, the NMFS, the EPA and the NCDENR with a brief description of the work, including the area of wetlands affected and the quantity of fill material.

g. Upon completion of any work authorized by this RGP, all temporary fills will be completely removed and the area reestablished as a wetland by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

h. Appropriate soil and erosion control measures must be established and maintained during construction. All fills, temporary and permanent, must be adequately stabilized at the earliest practicable date to prevent erosion of fill material into adjacent waters or wetlands.

i. In cases where new alignment approaches are to be constructed and the existing wetland approach fill is to be abandoned and no longer to be maintained as a roadway, the abandoned fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

j. Discharges of dredged or fill material into waters of the United States, including wetlands, must be minimized or avoided to the maximum extent practicable. In reviewing an activity, the Wilmington District Engineer will first determine whether the activity will result in more than minimal adverse environmental affects. For activities that are determined to have more than minimal impacts, compensatory mitigation will be required. To expedite the process, the applicant will provide a mitigation plan with the request for authorization. Site specific mitigation proposals will include, but are not necessarily limited to, a description of work, a

schedule of work and a monitoring plan, and they will be in accordance with currently approved Wilmington District and/or Corps-wide mitigation guidelines. The applicant may propose other forms of mitigation, such as mitigation bank credits or in-lieu fee mitigation with the notification, which in some situations and at the discretion of the Wilmington District, may be considered acceptable mitigation.

k. Activities in any North Carolina designated "Mountain Trout Waters" must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission (NCWRC) and/or the North Carolina Division of Water Quality (NCDWQ). Work that may result in the sedimentation of trout waters will generally be prohibited from October 15 to April 15, of any year, to avoid impacts on trout spawning.

l. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain and provide a letter of comments and recommendations from the North NCWRC on the proposed activities. A discussion of alternatives to working in the mountain trout waters and why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the mountain trout waters shall also be submitted with the letter from NCWRC. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The applicant should contact:

**North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
1721 Mail Service Center
Raleigh, North Carolina 27699-1721
Telephone (919) 733-7638**

The counties in which this condition applies are:

Alleghany	Ashe	Avery	Buncombe	Burke
Caldwell	Cherokee	Clay	Graham	Haywood
Henderson	Jackson	Macon	Madison	McDowell
Mitchell	Polk	Rutherford	Stokes	Surry Swain
Transylvania	Watauga	Wilkes	Yancey	

m. This permit does not authorize the use of culverts in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC).

n. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the NCWRC as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval

from NCDMF or NCWRC and the Corps. Discharges into waters of the United States designated by NCDMF as primary nursery areas and discharges into waters of the United States designated by NCWRC as inland nursery areas shall be coordinated with NCDMF and NCWRC prior to being authorized by this RGP. Coordination with NCDMF and NCWRC may result in a required construction moratorium during periods of significant biological productivity or critical life stages.

The Applicant should contact:

NC Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Telephone 252-726-7021
or 800-682-2632

North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
1721 Mail Service Center
Raleigh, NC 27699-1721
Telephone (919) 733-7638

o. No activity may result in substantial permanent disruption of the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.

p. This permit generally allows the permanent installation of culverts to 100 feet in length. For culverts longer than 100 feet, the proposed application will be closely evaluated to determine if unacceptable impacts on movement of aquatic organisms would result. In such cases, approval may not be provided.

q. If the project is located within the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA), then all pipe and culvert inverts will be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets. If the project is not located within the twenty (20) counties of North Carolina designated as coastal counties by CAMA, then culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this condition would result in more adverse impacts to the aquatic environment.

r. All activities authorized by this RGP shall, to the extent practicable, be conducted "in the dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Where concrete is utilized, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted.

s. If the project authorized by this RGP is proposed by a Federal or State agency, and is located within the twenty (20) counties of North Carolina designated as coastal counties by the CAMA, then prior to project initiation the proponent must obtain a determination of consistency with the state's coastal management program from the N.C. Division of Coastal Management (DCM). A copy of the state's consistency determination must be provided to the appropriate Wilmington District Regulatory Office at the following address:

Wilmington Regulatory Field Office
P.O. Box 1890
Wilmington, NC 28402

Washington Regulatory Field Office
P.O. Box 1000
Washington, NC 27889

The state's consistency determination will be conveyed in the form of a CAMA permit if the project is located within a designated CAMA Area of Environmental Concern (AEC), and will be conveyed in the form of a Consistency Determination letter from DCM if the project is not located within a designated CAMA AEC.

t. No work shall be authorized by the RGP within the twenty coastal counties, as defined by the North Carolina Division of Coastal Management, without prior consultation with NOAA Fisheries. For each activity reviewed by the Corps of Engineers where it is determined that the activity may affect Essential Fish Habitat (EFH) for Federally managed species, an EFH Assessment shall be prepared by the applicant and forwarded to the Corps of Engineers and NOAA Fisheries for review and comment prior to authorization of work.

u. All work will comply with Water Quality Certification No. 3404, issued by the NCDWQ on 28 March 2003.

v. The activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows

2. General Conditions.

a. All activities authorized by this RGP that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the NCDWQ regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

- b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this RGP.
- c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this RGP, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.
- d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.
- e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.
- f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.
- g. This RGP does not convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a CAMA Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.
- h. Authorization provided by this RGP may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this RGP shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.
- i. This RGP does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or results from existing or future operations undertaken by the United States in the public interest.

j. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas that possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 as amended, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or critical habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

(5) NOAA designated marine sanctuaries, National Estuarine Research Reserves, and coral reefs.

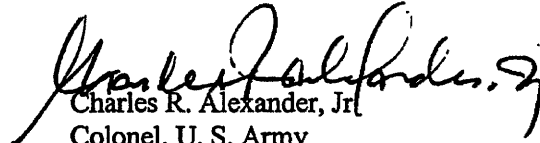
l. Permittees are advised that activities in or near a floodway may be subject to the National Flood Insurance Program, which prohibits any activities, including fill within a floodway that results in any increase in base flood elevations.

m. At his discretion, the Wilmington District Engineer may determine that this RGP will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

n. The permittee or the permittee's successors will maintain the authorized work in good condition and in conformance with the terms and conditions of the RGP.

o. The discharge of dredged or fill material shall consist of suitable material free from toxic pollutants in toxic amounts.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


Charles R. Alexander, Jr.
Colonel, U. S. Army
District Engineer



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STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

July 2, 2004

To: File

From: Tyler Stanton, Permit Specialist

Subject: B-3475 Water Quality (401) Certification

Written concurrence with the 401 certification is not required for this project, per Division of Water Quality Certification #3370. Written concurrence from DWQ is not required unless any standard condition of the General Certification(s), and additional commitments developed through permitting (Greensheet) cannot be met.

WQC #3370

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE
FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 31
(MAINTENANCE OF EXISTING FLOOD CONTROL FACILITIES)**

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and wetland areas as described in 33 CFR 330 Appendix A (B) (Maintenance of Existing Flood Control Structures). This Certification replaces Certification Number 3124 issued on February 11, 1997. This WQC is rescinded when the Corps of Engineers reauthorize this Nationwide Permit or when deemed appropriate by the Director of the DWQ.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Certification:

1. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires application to and prior written concurrence from the Division of Water Quality;
2. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;
3. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
4. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;
5. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
6. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;
7. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
8. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits, whichever is sooner;

WQC #3370

9. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this Certification for the project and may result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for individual certification for any project in this category of activity that requires written concurrence under this certification, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland, stream or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 18 March 2002

DIVISION OF WATER QUALITY

By

Gregory J. Thorpe, Ph.D.

Acting Director

WQC # 3370