

PROJECT SPECIAL PROVISION

(10-18-95)

Z-1

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.

<u>PERMIT</u>	<u>AUTHORITY GRANTING THE PERMIT</u>
Dredge and Fill and/or Work in Navigable Waters (404)	U. S. Army Corps of Engineers
State Dredge and Fill and/or CAMA	Division of Coastal Management, DENR State of North Carolina
Water Quality (401)	Division of Environmental Management, DENR State of North Carolina
Stormwater	Division of Environmental and Natural Resources, 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.

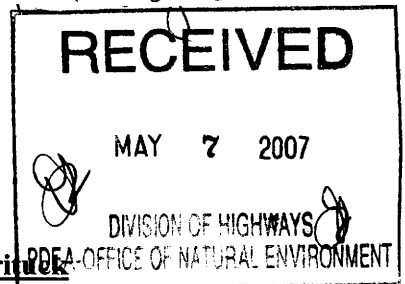
Agents of the permitting authority will periodically inspect the project for adherence to the permits.

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.

95
U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT



ORM ID: SAW-2007-1550-127 County: Currituck USGS Quad: Currituck

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: Dr. Gregory J. Thorpe, Ph.D., Environmental Management Director, PDEA

Address: N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Telephone No.: (919) 733-3141

Size and location of property (water body, road name/number, town, etc.): The project is located at Bridge # 4 on NCSR 1222 crossing over and adjacent to Tulls Creek. TIP # B-2950.

Description of projects area and activity: Replace an existing structurally deficient 236' long X 28' wide bridge with a new bridge 300' long X 33' wide impacting 0.24 acres of jurisdictional wetlands (0.18 acres of CAMA wetlands and 0.06 of 404 wetlands) and 0.002 acres of surface waters. Note - See Attached Additional Special Conditions.

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number: 198200031
Nationwide Permit Number:

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under any NWP.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management .

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Bill Biddlecome at (252) 975-1616 ex 26.

Corps Regulatory Official William J. Biddlecome Date: 05/01/2007

Expiration Date of Verification: 08/31/2008

Determination of Jurisdiction:

- A. Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- B. There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- C. There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- D. The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued 05/27/2003. ORM ID SAW- or ACTION ID 200310639

Basis of Jurisdictional Determination: This site exhibits wetland criteria as described in the 1987 Corps Wetland Delineation Manual and is part of a broad continuum of wetlands connected to Tulls Creek, a tributary to Tull Bay, which is a tributary to the North Landing River.

Appeals Information: (This information does not apply to preliminary determinations as indicated by paragraph A. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the South Atlantic Division, Division Office at the Following address:

Mr. Michael F. Bell, Administrative Appeal Review Officer
 CESAD-ET-CO-R
 U.S. Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 9M15
 Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by N/A.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.

Corps Regulatory Official: William J. Biddlestone

Date 05/01/2007

Copy Furnished:
 FWS, NMF, EPA, NCDENR (DCM & DWQ, WRC), EEP

Additional Special Conditions

Action I.D. # SAW 2007-1550-1127 - NCDOT, Division 1, NCSR 1222, Bridge # 4, TIP # B-2950

- ✶a) Compensatory mitigation for the unavoidable impacts to 0.06 acres of riparian wetlands and 0.18 acres of coastal marsh wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated March 14, 2007, from William D. Gilmore, EEP Director. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide 0.12 acres of restoration equivalent riparian wetlands and 0.36 acres of restoration equivalent coastal marsh wetlands in the Pasquotank River Basin (Hydrologic Cataloging Unit 03010205) in accordance with Section X of the MOA. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.
- b) To avoid adverse impacts to spawning populations of fish species at this project site, no in-water work will be conducted between February 15 and September 30. For the purpose of this moratorium, in water is defined as those areas that are inundated at mean high water. All in-water work must be completed outside the in-water work moratorium from February 15 through September 30.
- c) To avoid adverse impacts to spawning populations of fish, anadromous and resident species at the project site, NCDOT will follow the "Stream Crossing Guidelines for Anadromous Fish Passage."
- d) All measures will be taken to avoid any temporary fill from entering into Tull's Creek from bridge demolition. Bridge demolition shall follow NCDOT best management practices for construction and maintenance activities dated August 2003 and incorporate NCDOT policy entitled "Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999.
- e) To protect the West Indian Manatee, NCDOT will follow the "Guidelines for Avoiding Impacts to the West Indian Manatee, Precautionary Measures for Construction Activities in North Carolina Waters," prepared by the U.S. Fish

and Wildlife Service. A copy of these guidelines is attached to the permit conditions.

- f) Bridge deck drains will not discharge directly into Tull's Creek and will not be located water-ward of the riprap alignment under the bridge.
- g) No bridge demolition debris or excavated or fill material will be placed at any time, in any wetlands or surrounding waters, outside of the alignment of the fill area indicated on the work plans.
- h) All excavated materials will be confined above normal high water and landward of regularly or irregularly flooded wetlands behind adequate dikes or retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- i) 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, or any activities that cause the degradation of waters or wetlands, except as authorized by this permit, or any modification to this permit. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional waters or wetlands associated with this permit without appropriate modification of this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project.
- j) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the permittee has that information. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. The permittee shall ensure that all such areas comply with condition (i) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the preceding condition (i). All information will be available to the USACE upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site

and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

- k) The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions and any Corps approved modifications shall be available at the project site during construction and maintenance of this project.
- l) Any violation of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District, U.S. Army Corps of Engineers, within 24 hours of the violation.
- m) Bridge piles will be driven in place and no jetting of piles are permitted for this project.
- n) Failure to institute and carry out the details of special conditions a. - m., above, special conditions a. – v. and general conditions a.- o., may result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with TIP No. B-2950, or such other remedy as the District Engineer or his authorized representatives may seek.

United States Department of the Interior



FISH AND WILDLIFE SERVICE

Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

GUIDELINES FOR AVOIDING IMPACTS TO THE WEST INDIAN MANATEE Precautionary Measures for Construction Activities in North Carolina Waters

The West Indian manatee (*Trichechus manatus*), also known as the Florida manatee, is a Federally-listed endangered aquatic mammal protected under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C 1461 *et seq.*). The manatee is also listed as endangered under the North Carolina Endangered Species Act of 1987 (Article 25 of Chapter 113 of the General Statutes). The U.S. Fish and Wildlife Service (Service) is the lead Federal agency responsible for the protection and recovery of the West Indian manatee under the provisions of the Endangered Species Act.

Adult manatees average 10 feet long and weigh about 2,200 pounds, although some individuals have been recorded at lengths greater than 13 feet and weighing as much as 3,500 pounds. Manatees are commonly found in fresh, brackish, or marine water habitats, including shallow coastal bays, lagoons, estuaries, and inland rivers of varying salinity extremes. Manatees spend much of their time underwater or partly submerged, making them difficult to detect even in shallow water. While the manatee's principal stronghold in the United States is Florida, the species is considered a seasonal inhabitant of North Carolina with most occurrences reported from June through October.

To protect manatees in North Carolina, the Service's Raleigh Field Office has prepared precautionary measures for general construction activities in waters used by the species. Implementation of these measure will allow in-water projects which do not require blasting to proceed without adverse impacts to manatees. In addition, inclusion of these guidelines as conservation measures in a Biological Assessment or Biological Evaluation, or as part of the determination of impacts on the manatee in an environmental document prepared pursuant to the National Environmental Policy Act, will expedite the Service's review of the document for the fulfillment of requirements under Section 7 of the Endangered Species Act. These measures include:

1. The project manager and/or contractor will inform all personnel associated with the project that manatees may be present in the project area, and the need to avoid any harm to these endangered mammals. The project manager will ensure that all construction personnel know the general appearance of the species and their habit of moving about completely or partially submerged in shallow water. All construction personnel will be informed that they are responsible for observing water-related activities for the presence of manatees.
2. The project manager and/or the contractor will advise all construction personnel that

there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act and the Endangered Species Act.

3. If a manatee is seen within 100 yards of the active construction and/or dredging operation or vessel movement, all appropriate precautions will be implemented to ensure protection of the manatee. These precautions will include the immediate shutdown of moving equipment if a manatee comes within 50 feet of the operational area of the equipment. Activities will not resume until the manatee has departed the project area on its own volition (i.e., it may not be herded or harassed from the area).

4. Any collision with and/or injury to a manatee will be reported immediately. The report must be made to the U.S. Fish and Wildlife Service (ph. 919.856.4520 ext. 16), the National Marine Fisheries Service (ph. 252.728.8762), and the North Carolina Wildlife Resources Commission (ph. 252.448.1546).

5. A sign will be posted in all vessels associated with the project where it is clearly visible to the vessel operator. The sign should state:

CAUTION: The endangered manatee may occur in these waters during the warmer months, primarily from June through October. Idle speed is required if operating this vessel in shallow water during these months. All equipment must be shut down if a manatee comes within 50 feet of the vessel or operating equipment. A collision with and/or injury to the manatee must be reported immediately to the U.S. Fish and Wildlife Service (919-856-4520 ext. 16), the National Marine Fisheries Service (252.728.8762), and the North Carolina Wildlife Resources Commission (252.448.1546).

6. The contractor will maintain a log detailing sightings, collisions, and/or injuries to manatees during project activities. Upon completion of the action, the project manager will prepare a report which summarizes all information on manatees encountered and submit the report to the Service's Raleigh Field Office.

7. All vessels associated with the construction project will operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

8. If siltation barriers must be placed in shallow water, these barriers will be: (a) made of material in which manatees cannot become entangled; (b) secured in a manner that they cannot break free and entangle manatees; and, (c) regularly monitored to ensure that manatees have not become entangled. Barriers will be placed in a manner to allow manatees entry to or exit from essential habitat.

Figure 1. The whole body of the West Indian manatee may be visible in clear water; but in the dark and muddy waters of coastal North Carolina, one normally sees only a small part of the head when the manatee raises its nose to breathe.

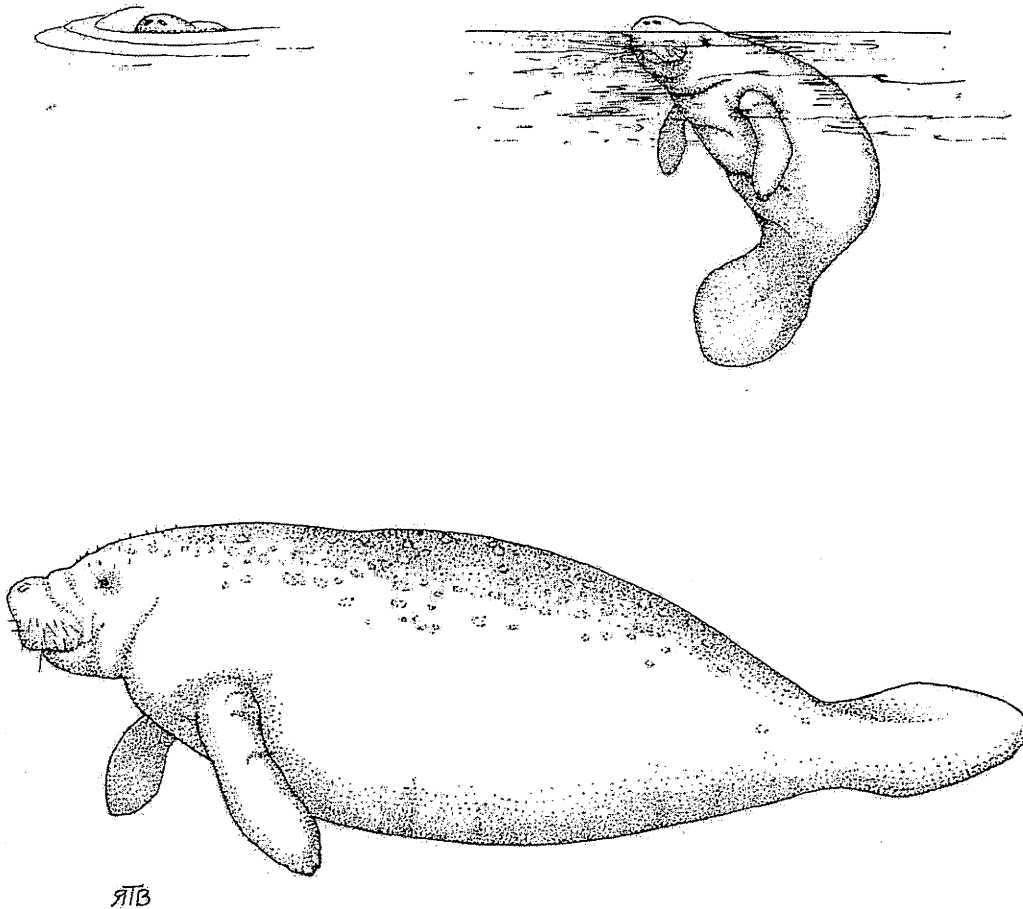


Illustration used with the permission of the North Carolina State Museum of Natural Sciences.
Source: Clark, M. K. 1987. Endangered, Threatened, and Rare Fauna of North Carolina: Part I. A re-evaluation of the mammals. Occasional Papers of the North Carolina Biological Survey 1987-3. North Carolina State Museum of Natural Sciences. Raleigh, NC. pp. 52.

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:

- (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:

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.

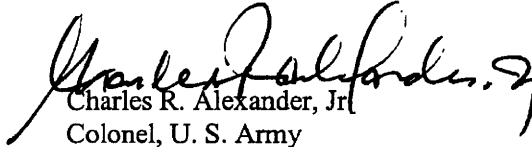
l. Permittees are advised that activities in or near a floodway may be subject to the National Flood Insurance Program, which prohibits any activities, including fill within a floodway that results in any increase in base flood elevations.

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:

A handwritten signature in cursive script, appearing to read "Charles R. Alexander, Jr.", is written over the typed name.

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

ORM ID: SAW-2007-1550-127

112

County: Currituck

Permittee: North Carolina Department of Transportation, Mr. Gregory Thorpe Ph.D. PDEA

Date Permit Issued: 05/1/2007

Project Manager: Biddlecome

✱ 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
WASHINGTON REGULATORY FIELD OFFICE
POST OFFICE BOX 1000
WASHINGTON, NORTH CAROLINA 27889

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



113

RECEIVED

MAY 30 2007

DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

Bailey
Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality

May 21, 2007
Currituck County
DWQ Project No. 20030680 v.2
TIP B-2950

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

Dr. Gregory J. Thorpe, Manager
Planning & Environmental Branch
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina, 27699-1548

Dear Dr. Thorpe:

You have our approval, in accordance with the attached conditions and those listed below, for the following impacts:

Site Number	Wetlands (acres)			Open Water (acres)	Streams (acres)
	Fill	Mechanized Clearing	Excavation		
1	0.18			0.015	
2				0.005	
3	0.04	0.01	0.01		
4				0.001	
Net Total Impacts	0.24			0.021	< 0.01 (bents)

The project shall be constructed in accordance with your application dated March 15, 2007 for the purpose of replacing Bridge Number 4 over Tulls Creek on SR 1222 (Tulls Creek Rd) in Currituck County. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3627. This certification corresponds to the General Permit 31, issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit issued by the US Army Corps of Engineers (this supercedes Condition 19 of General Certification 3627 issued March 19, 2007).

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the DWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or total impacts to streams or buffers (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification.

- 1.) Upon completion of the project, the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed.
- 2.) The permittee will need to adhere to all appropriate in-water work moratoriums (including the use of pile driving or vibration techniques) prescribed by the NC Wildlife Resources Commission, the US Fish and Wildlife Service, and National Marine Fisheries Service. No in-water work is permitted between February 15 and September 30 of any year, without prior approval from the NC Division of Water Quality and the NC Wildlife Resources Commission. In addition,

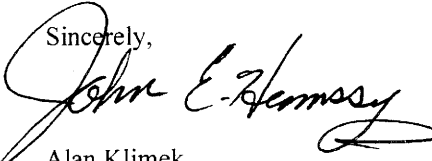
the permittee shall conform with the NCDOT policy entitled "Stream Crossing Guidelines for Anadromous Fish Passage (May 12, 1997) at all times.

- 3.) Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:
 - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
 - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
- 4.) If concrete is used during construction, a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
- 5.) During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
- 6.) Bridges should be constructed with driven piles or drilled shaft construction; the jetting of piles is not authorized without written approval from the DWQ.
- 7.) Any pile driving or drilling activities shall be enclosed in turbidity curtains.
- 8.) No drill slurry or water that has been in contact with uncured concrete should be allowed to enter surface water. This water should be pumped onto barges or directly to high ground and disposed of properly.
- 9.) If necessary, all bridge construction shall be performed from the existing bridge. If work bridges that impact waters or wetlands are necessary, written approval from the DWQ is required. If barges are required they shall be floated into position and then sunk, not sunk and then dragged into place.
- 10.) The dimension, pattern, and profile of the waterway above and below the crossing should not be modified. Disturbed floodplains and streams should be restored to natural geomorphic conditions.
- 11.) No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
- 12.) Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
- 13.) All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.
- 14.) The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.

- 15.) Native riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
- 16.) There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.
- 17.) Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.
- 18.) Bridge deck drains should not discharge directly into the stream. Stormwater should be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices*.
- 19.) The post-construction removal of any temporary bridge structures must return the project site to its preconstruction contours and elevations. The impacted areas shall be re-vegetated with appropriate native species.
- 20.) A copy of this Water Quality Certification shall be posted on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.
- 21.) The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If DWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWQ may reevaluate and modify this certification.

If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, P.O. Box 27447, Raleigh, N.C. 27611-7447. This certification and its conditions are final and binding unless you ask for a hearing.

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact David Wainwright at (919) 715-3415.

Sincerely,

for Alan Klimek
Director, Division of Water Quality

Attachment

- cc: Wilmington District Corps of Engineers
- Mr. Bill Biddlecome, US Army Corps of Engineers, Washington Field Office
- Mr. Clay Willis, Division 2 Environmental Officer, NCDOT
- Cathy Brittingham, DCM, 1638 Mail Service Center, Raleigh, NC 27699
- Garcy Ward, NC DWQ
- Central Files
- File copy

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS
NATIONWIDE PERMIT NUMBER 14 (ROAD CROSSINGS) AND REGIONAL GENERAL
PERMIT 198200031 (WORK ASSOCIATED WITH BRIDGE CONSTRUCTION, MAINTENANCE
OR REPAIR CONDUCTED BY NCDOT OR OTHER GOVERNMENT AGENCIES)
AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

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 (DWQ) Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and adjacent wetland areas or to wetland areas that are not a part of the surface tributary system to interstate waters or navigable waters of the United States (i.e., isolated wetlands) as described in 33 CFR 330 Appendix A (B) (14) of the Corps of Engineers regulations (Nationwide Permit No. 14 and Regional General Permit 198200031) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. The category of activities shall include any fill activity for road crossings and is limited to fill less than one-third acre in tidal waters and less than one-half acre in non-tidal waters. This Certification replaces Water Quality Certification Number 2177 issued on November 5, 1987, Water Quality Certification Number 2666 issued on January 21, 1992, Water Quality Certification Number 2732 issued on May 1, 1992, Water Quality Certification Number 3103 issued on February 11, 1997, Water Quality Certification Number 3289 issued on June 1, 2000 and Water Quality Certification Number 3375 issued March 18, 2002 and WQC 3404 issued March 28, 2003. This WQC is rescinded when the Corps of Engineers re-authorizes Nationwide Permit 14 or Regional General Permit 198200031 or when deemed appropriate by the Director of 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. Enumerating and Reporting of Impacts:

- Streams - Impacts to streams as determined by the Division of Water Quality shall be measured as length of the centerline of the normal flow channel. Permanent and/or temporary stream impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Stream relocations and stream bed and/or bank hardening are considered to be permanent stream impacts. Any activity that results in a loss of use of stream functions including but not limited to filling, relocating, flooding, dredging and complete shading shall be considered stream impacts. Enumeration of impacts to streams shall include streams enclosed by bottomless culverts, bottomless arches or other spanning structures when a 404 Permit is used anywhere in a project unless the entire structure (including construction impacts) spans the entire bed and both banks of the stream, is only used for a road, driveway or path crossing, and is not mitered to follow the stream pattern. Impacts for dam footprints and flooding will count toward the threshold for stream impacts, but flooding upstream of the dam will not (as long as no filling, excavation, relocation or other modification of the existing stream dimension, pattern or profile occurs) count towards mitigation requirements.
- Wetlands - Impacts to wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary wetland impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of wetland functions including but not limited to filling, draining, and flooding shall be considered wetland impacts. Enumeration of impacts to wetlands shall include activities that change the hydrology of a wetland when a 404 Permit is used anywhere in a project.

WQC #3627

- Lakes and Ponds – Lake and Pond Impacts Enumeration- Impacts to waters other than streams and wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary water impacts shall be enumerated on the entire project for all impacts proposed regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of aquatic functions including but not limited to filling and dredging shall be considered waters impacts;
- * 2. 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;
- 3. Application to and payment of a fee to DWQ is not required for construction of a driveway to a single family lot as long as the driveway impacts less than 25 feet of stream channel including any in-stream stabilization needed for the crossing;
- * 4. Impacts to any stream length in the Neuse, Tar-Pamlico or Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence for this Certification from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse and Tar-Pamlico River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;
- 5. Irrespective of other application thresholds in this General Certification, all impacts to perennial waters and their associated buffers require written approval from DWQ since such impacts are allowable as provided in 15A NCAC 2B. 0212 (WS-I), 2B .0213 (WS-II), 2B .0214 (WS-III) and 2B .0215 (WS-IV). Only water dependent activities, public projects and structures with diminimus increases in impervious surfaces will be allowed as outlined in those rules. All other activities require a variance from the delegated local government and/or the NC Environmental Management Commission before the 401 Water Quality Certification can be processed. In addition, a 30 foot wide vegetative buffer for low density development or a 100 foot wide vegetative buffer for high density development must be maintained adjacent to all perennial waters except for allowances as provided under the Water Supply Watershed Protection Rules. For the purposes of this condition, perennial waters are defined as those shown as perennial waters on the most recent USGS 1:24,000 topographic map or as otherwise determined by local government studies;
- 6. Additional site-specific stormwater management requirements may be added to this Certification at DWQ's discretion on a case by case basis for projects that have or are anticipated to have impervious cover of greater than 30 percent. Site-specific stormwater management shall be designed to remove 85% TSS according to the latest version of DWQ's Stormwater Best Management Practices manual at a minimum.

Additionally, in watersheds within one mile and draining to 303(d) listed waters, as well as watersheds that are classified as nutrient sensitive waters (NSW), water supply waters (WS), trout waters (Tr), high quality waters (HQW), and outstanding resource waters (ORW), the Division shall require that extended detention wetlands, bio-retention areas, and ponds followed by forested filter strips (designed according to latest version of the NC DENR Stormwater Best Management Practices Manual) be constructed as part of the stormwater management plan when a site-specific stormwater management plan is required.

Alternative designs may be requested by the applicant and will be reviewed on a case-by-case basis by the Division of Water Quality.

Approval of stormwater management plans by the Division of Water Quality's other existing state stormwater programs including appropriate local programs are sufficient to satisfy this Condition as long as the stormwater management plans meet or exceed the design requirements specified in this condition. This condition applies unless more stringent requirements are in effect from other state water quality programs.

- Unless specified otherwise in the approval letter, the final, written stormwater management plan shall be approved in writing by the Division of Water Quality's Wetlands Unit before the impacts specified in this Certification occur.
 - The facilities must be designed to treat the runoff from the entire project, unless otherwise explicitly approved by the Division of Water Quality.
 - Also, before any permanent building or other structure is occupied at the subject site, the facilities (as approved by the Wetlands Unit) shall be constructed and operational, and the stormwater management plan (as approved by the Wetlands Unit) shall be implemented.
 - The structural stormwater practices as approved by the Wetlands Unit as well as drainage patterns must be maintained in perpetuity.
 - No changes to the structural stormwater practices shall be made without written authorization from the Division of Water Quality.
7. Compensatory stream mitigation shall be required at a 1:1 ratio for not only perennial but also intermittent stream impacts that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II unless the project is a linear, publicly-funded transportation project, which has a 150-foot per-stream impact allowance;
- * 8. In accordance with North Carolina General Statute Section 143-215.3D(e), any application 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 through the Division of Coastal Management and will be the higher of the two fees;
9. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. For linear public transportation projects, impacts equal to or exceeding 150 feet per stream may require mitigation. In addition, buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "allowable with mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules. A determination of buffer, wetland and stream mitigation requirements shall be made for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur, unless otherwise specified in the approval letter. The mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the travelling public. Projects may also be implemented once payment is made to a private mitigation bank or other in-lieu fee program, as specified in the written concurrence of 401 Certification for a project. Please note that if a stream relocation is conducted as a stream restoration as defined in *The Internal Technical Guide for Stream Work in North Carolina*, April 2001, the restored length can be used as compensatory mitigation for the impacts resulting from the relocation;

- * 10. For any project involving re-alignment of streams, a stream relocation plan must be included with the 401 application for written DWQ approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel, to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, rip-rap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested. If suitable stream mitigation is not practical on-site, then stream impact will need to be mitigated elsewhere;
- 11. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested to do so in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in aggradation, degradation or significant changes in hydrology of streams or wetlands;
- 12. That 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;
- 13. All sediment and erosion control measures placed in wetlands and waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
- 14. That additional site-specific conditions may be added to projects proposed under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
- 15. Measures shall be taken to prevent live or fresh concrete from coming into contact with freshwaters of the state until the concrete has hardened;
- * 16. 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;
- 17. If this Certification is used to access building sites, all lots owned by the applicant must be buildable without additional fill beyond that explicitly allowed under other General

WQC #3627

Certifications. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground;

- * 18. 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;
- 19. 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 the corresponding Nationwide Permit 14 or Regional General Permit 198200031, whichever is sooner.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this Certification for the project and may also 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 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: 19 March 2007

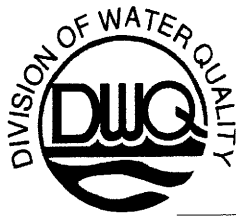
DIVISION OF WATER QUALITY

By



Alan W. Klimek, P.E.

Director



DWQ Project No.: _____ County: _____
Applicant: _____
Project Name: _____
Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion
Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401/Wetlands Unit, North Carolina Division of Water Quality, 1621 Mail Service Center, Raleigh, NC, 27699-1621. This form may be returned to DWQ by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

Applicant's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Agent's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

I, _____, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project, for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature _____ Registration No. _____

Date _____

Permit Class
NEW

122

Permit Number
102-07

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

X Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

X Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 1548 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in Currituck County at Tulls Creek, Bridge No. 4 on SR 1222
(Tulls Creek Road), as requested in the permittee's application dated 3/15/07, including the
attached workplan drawings (27): 21 dated 3/14/07; and 6 dated 6/29/07.

This permit, issued on 7/3/07, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

TIP No. B-2950, Bridge Replacement

- 1) Due to the classification of Tulls Creek as a Primary Nursery Area, no in-water work or in-marsh work shall be conducted between February 15th to September 30th of any year without prior approval of DCM, in consultation with the N.C. Wildlife Resources Commission and the N.C. Division of Marine Fisheries. For the purposes of this moratorium, in-water is defined as those areas that are inundated at normal water level, including the waters or contiguous inundated wetlands of Tulls Creek.
- 2) The permittee shall implement the N.C. Department of Transportation's (NCDOT's) Stream Crossing Guidelines for Anadromous Fish Passage, except as modified in Condition No. 1 of this permit.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

No expiration date, pursuant to GS 136-44.7B

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



James H. Gregson, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.



Signature of Permittee

ADDITIONAL CONDITIONS

- 3) The authorized project is located within a primary nursery area (PNA). Therefore, in accordance with T15A:07H.0208 of the rules of the Coastal Resources Commission, no new dredging or excavation within the PNA shall be permitted. Dredging in any manner, including "kicking" with boat propellers, is not authorized. This prohibition shall be applied and enforced throughout the entire existence of the permitted structure.
- 4) The West Indian Manatee, *Trichechus manatus*, which is listed as a federally endangered species, has been reported in North Carolina waters. In order to protect the West Indian manatee all work should be done during the period from November 1 to May 31. If work must be done during the period from June through October the guidelines entitled "Precautions for General Construction in Areas Which may Be Used by the West Indian Manatee in North Carolina" shall be followed.
- 5) In accordance with environmental commitments made within the Addendum to the Categorical Exclusion document dated 9/23/04, if any trees are removed, bald eagle nest surveys shall be performed as requested by the N.C. Wildlife Resources Commission in a memorandum dated 7/27/98.
- 6) Unless specifically altered herein, any mitigative measures or environmental commitments specifically made by the permittee in the CAMA permit application and/or the Addendum to the Categorical Exclusion document dated 9/23/04, shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this permit.
- 7) The bridge shall be constructed using top down construction methodologies with an off site detour. Any other construction method shall require additional authorization.
- 8) Unless specifically altered herein, the N.C. Department of Transportation's (NCDOT's) document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during both demolition and construction activities.
- 9) Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety, except that in the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body, and DCM shall be notified of each occurrence within one working day.
- 10) The pile installation practice for the bridge shall be accomplished using a vibratory hammer. Should the permittee determine that another type of pile installation, such as jetting or drilled shaft construction, is preferred, additional authorization from DCM shall be required.
- 11) There shall be no deck drains on the new bridge without permit modification.
- 12) The placement of riprap shall be limited to the areas as depicted on the attached workplan drawings. The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities. The riprap material shall consist of clean rock or masonry materials such as, but not limited to, granite, marl or broken concrete.
- 13) Material excavated may be used in fill areas associated with the project or shall be removed from the site and taken to an approved high ground location.

ADDITIONAL CONDITIONS

- 14) All excavated materials shall be confined above normal water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 15) The temporary placement and double handling of any excavated or fill material within waters or vegetated wetlands is not authorized.
- 16) No excavation shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawings, without permit modification.
- 17) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill areas as indicated on the attached workplan drawings, without permit modification.
- 18) All fill material shall be clean and free of any pollutants except in trace quantities.
- 19) All fill material shall be obtained from an upland source.
- 20) Live concrete shall not be allowed to contact the water in or entering into Tulls Creek, or the adjacent wetlands.
- 21) Construction staging areas shall be located only in upland areas, and not in wetlands or waters of the State.
- 22) All construction access shall be through the use of the existing road, existing bridge and a barge. Construction access across wetlands, including the use of mats, shall require additional authorization from DCM.
- 23) Debris resulting from the removal of the existing bridge (including deck components), culvert, roadway asphalt, existing structures within the Right-of-Way as authorized by this permit and associated materials, shall not enter wetlands or waters of the State, even temporarily.
- 24) All materials and debris associated with the removal and/or construction of the existing and/or new bridge (including deck components), culvert, roadway asphalt, existing structures within the Right-of-Way as authorized by this permit and associated materials shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.

Retaining Walls and Bulkheads

- 25) In accordance with the CAMA major permit application, the existing bulkheads shall be retained.
- 26) The retaining walls shall be installed using a vibratory hammer. Should the permittee determine that another type of installation is preferred, additional authorization from DCM shall be required.
- 27) The filter fabric associated with the backfill shall be in place prior to the placement of any backfill.

ADDITIONAL CONDITIONS

- 28) All backfill material shall be obtained from a high ground source and confined behind the permitted retaining walls and bulkheads.
- 29) The retaining walls and bulkheads shall be structurally tight so as to prevent seepage of fill materials through the structure.
- 30) The retaining walls and bulkheads shall be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by DCM.
- 31) The retaining walls and bulkheads shall be in place prior to any backfilling activities.

Impacts to Adjacent Properties

- 32) This permit does not authorize any impacts to adjacent properties during construction. If unexpected impacts do occur to adjacent properties during construction, then the permittee shall notify DCM and the impacts shall be rectified prior to project completion.

Impacts to Wetlands and Waters of the State and Mitigation

NOTE: This project will permanently impact approximately 0.18 acres of CAMA coastal wetlands due to fill. The CAMA coastal wetland community impacted by this project is high marsh, with dominant species including *Juncus roemerianus* and *Spartina cynosuroides*. This project will also permanently impact approximately 0.06 acres of 404 wetlands (0.04 acres due to fill, 0.01 acres due to excavation and 0.01 acres due to mechanized clearing) and will permanently impact approximately 0.02 acres of surface waters.

- 33) No temporary impacts to wetlands or waters of the State are authorized by this permit without prior approval from DCM.
- 34) After the three existing structures have been removed from the new Right-of-Way as authorized by this permit, the property where the structures once stood shall be restored to its natural state to the maximum extent practicable. The permittee shall consult with DCM prior to initiating restoration of the affected areas to finalize requirements, which may include soil remediation, excavation, grading and/or planting of native wetland vegetation similar to the immediately surrounding wetlands if appropriate.

NOTE: In accordance with the Ecosystem Enhancement Program (EEP) letter dated 3/14/07, compensatory mitigation for permanent wetland impacts of 0.18 acres of Coastal Marsh wetlands and 0.06 acres of riparian wetlands associated with the authorized project shall be provided by the EEP.

- 35) The EEP shall coordinate closely with DCM to ensure that compensatory mitigation for permanent impacts to 0.18 acres of CAMA Coastal Wetlands as defined by 15A NCAC 07H .0205 includes a minimum of 1:1 restoration of CAMA Coastal Wetlands as defined by 15A NCAC 07H .0205. The mitigation shall be in-kind, i.e. the targeted species composition of the restored wetlands shall approximate the species composition of the impacted wetlands. The mitigation shall be implemented and in place within 3 years of the issuance of this permit.

ADDITIONAL CONDITIONS**Sedimentation and Erosion Control**

- 36) Turbidity curtains and silt fences shall be used to isolate all work areas from Tulls Creek, including pile installation, placement of riprap, excavation or filling. The turbidity curtains shall be installed parallel to the banks on each side of the creek. The turbidity curtains shall extend past the construction limits and be attached to the silt fences containing the work site. The turbidity curtains shall be of sufficient length to extend to the substrate. The turbidity curtains shall not fully encircle the work area or extend across Tulls Creek. The turbidity curtains shall be properly maintained and retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.
- 37) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and properties (e.g. silt fence, diversion swales or berms, etc.).
- 38) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and the N.C. Department of Transportation's (NCDOT's) Memorandum of Agreement with the Division of Land Resources.
- 39) The permittee shall follow "Best Management Practices for the Protection of Surface Waters".
- 40) The permittee shall comply with the Design Standards in Sensitive Watersheds, 15A NCAC 4B .0124.
- 41) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

Utilities

- 42) Subaqueous lines shall be placed at a depth of six feet below the project depth of federal projects. In other areas they shall be installed a minimum depth of two feet below the bottom contour.
- 43) The water pipes shall be installed using a horizontal directional bore drilling method. Entry and exit points of this activity, including disposal of material from the drilling activity, shall be outside of all wetlands and waters of the State.
- 44) The power line relocation and water line installation shall not result in any permanent or temporary impacts to wetlands or waters of the State, without permit modification.
- 45) Any relocation of utility lines that is not specifically depicted on the attached workplan drawing(s), or described within the attached permit application, shall require approval from DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.

NOTE: The applicant should contact the Gates County Water Department to arrange a site visit to confirm water line locations, prior to construction.

ADDITIONAL CONDITIONS

Stormwater Management

- 46) The N.C. Division of Water Quality (DWQ) Stormwater Management Section approved this project under stormwater management rules of the Environmental Management Commission under Stormwater Permit No. SW7060902 on 11/22/06. Any violation of the permit approved by the DWQ shall be considered a violation of this CAMA permit.

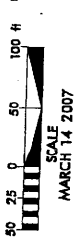
General

- 47) No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
- 48) During bridge construction, the permittee shall make every attempt to allow the same navigation that is currently possible in Tulls Creek, north and south of the existing bridge. If this is not possible, then adequate notice shall be provided to the public that navigation will be limited during construction. The notice shall include an estimate of the amount of time that the limited navigation will occur.
- 49) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent waters.
- 50) If it is determined that additional permanent and/or temporary impacts (such as but not limited to temporary access roads, detours, or matting to transport equipment across wetlands) are necessary that are not shown on the attached workplan drawing(s) or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.
- 51) Development authorized by this permit shall only be conducted within N.C. Department of Transportation Right-of-Ways and/or easements.
- 52) The permittee and/or his contractor shall contact the DCM Transportation Project Coordinator in Elizabeth City at (252) 264-3901 to request a preconstruction conference prior to project initiation.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under General Permit Number 198200031 (COE Action ID No. SAW-2007-1550-127), which was issued on 5/1/07.

NOTE: This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

- 53) The N.C. Division of Water Quality (DWQ) authorized the proposed project on 5/21/07 (DWQ Project No. 20030680 v.2) under General Water Quality Certification No. 3627. Any violation of the Certification approved by DWQ shall be considered a violation of this CAMA permit.



SCALE
MARCH 14 2007

IMPACTS KEY	
	WLD in Wetlands
	WLD in Surface Waters

Site 1

128

MATCH LINE
-L- STA. 25+00.00 SEE SHEET 5

25

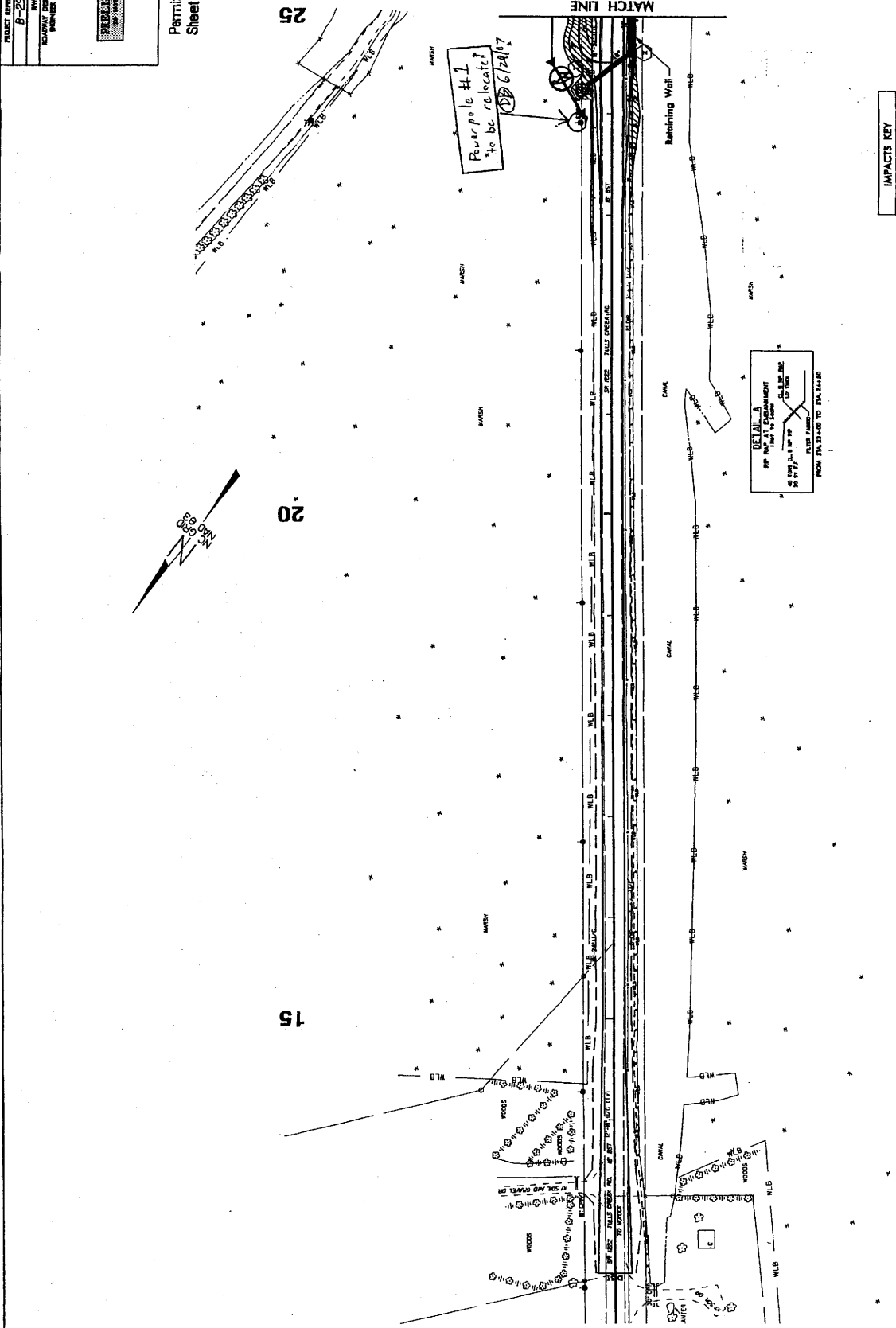
20

15



Permit Drawing
Sheet 1 of 6

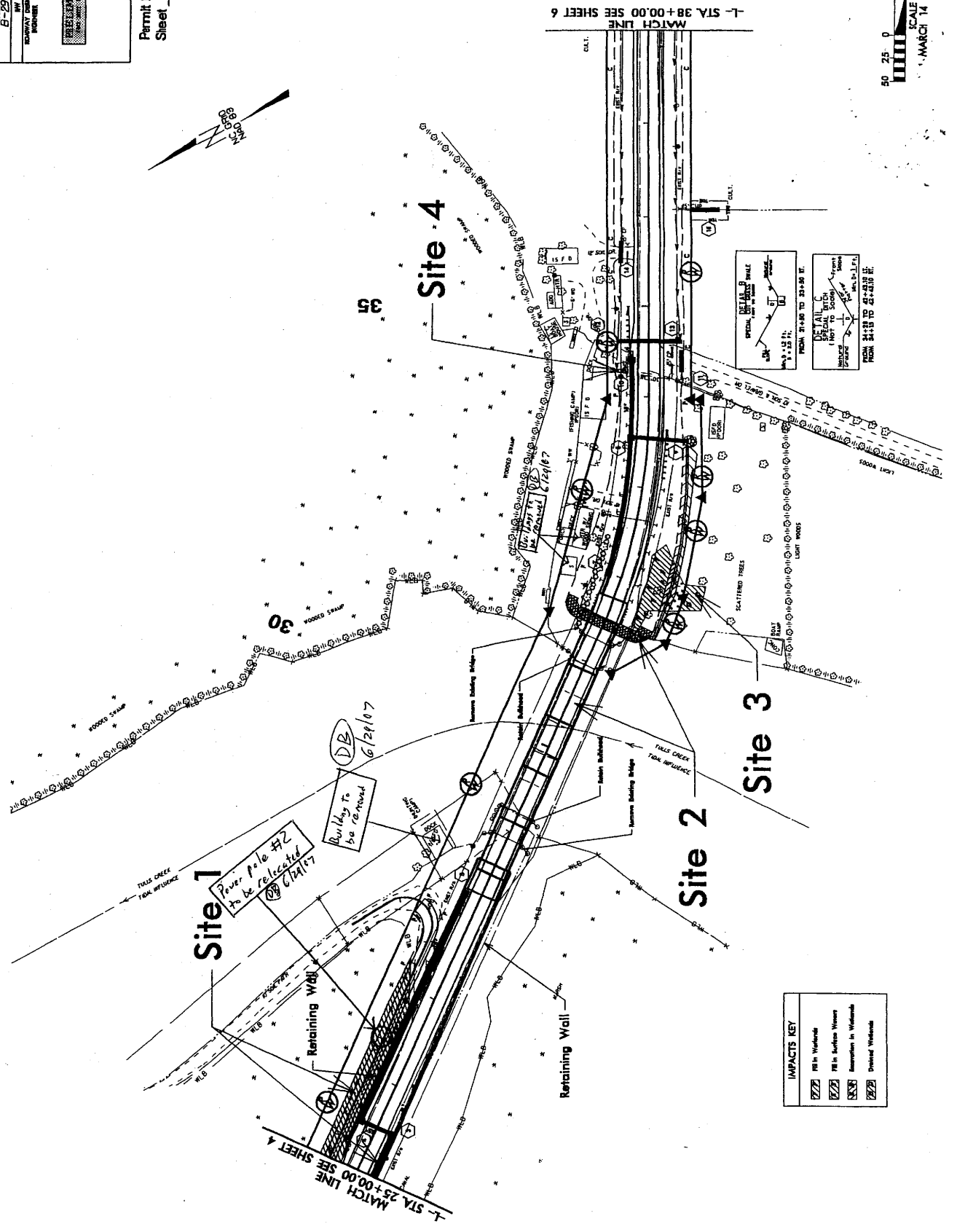
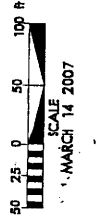
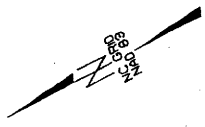
PROJECT REFERENCE NO. B-2950	SHEET NO. 4
DESIGNER HYDRA-ENGINEERING, INC.	DATE 03/14/07
<p>PROJECT LOCATION: [Hatched Box]</p>	



PROJECT REFERENCE NO. **B-2950**
 SHEET NO. **5**
 DRAWN BY: **TRAVIS CREEK ENGINEERS**
 CHECKED BY: **TRAVIS CREEK ENGINEERS**
 DESIGNED BY: **TRAVIS CREEK ENGINEERS**

Permit Drawing
 Sheet **2** of **6**

129

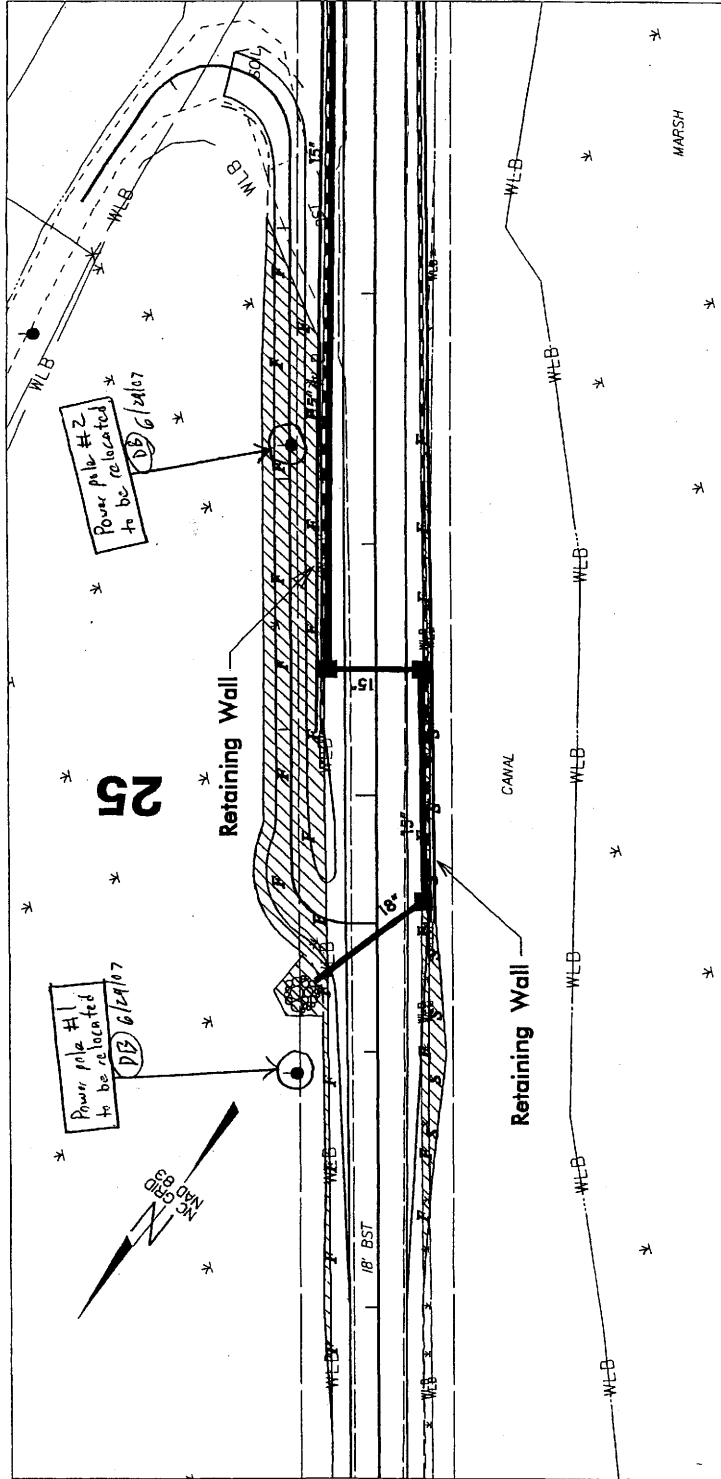


IMPACTS KEY

- Wetlands
- Surface Waters
- Streambed Alteration
- Disturbed Wetlands

Enlarged View



Site 1



130

Permit Drawing
Sheet 3 of 6

PROJECT REFERENCE NO.	SHEET NO.
HIGHWAY DESIGN	PAVEMENT DESIGN
INCOMPLETE PLANS DO NOT USE FOR ADJUSTMENT	PRELIMINARY PLANS DO NOT USE FOR CONSTRUCTION

-  Denotes Fill in Wetland
-  Denotes Fill in Surface Water



SCALE
MARCH 14 2007

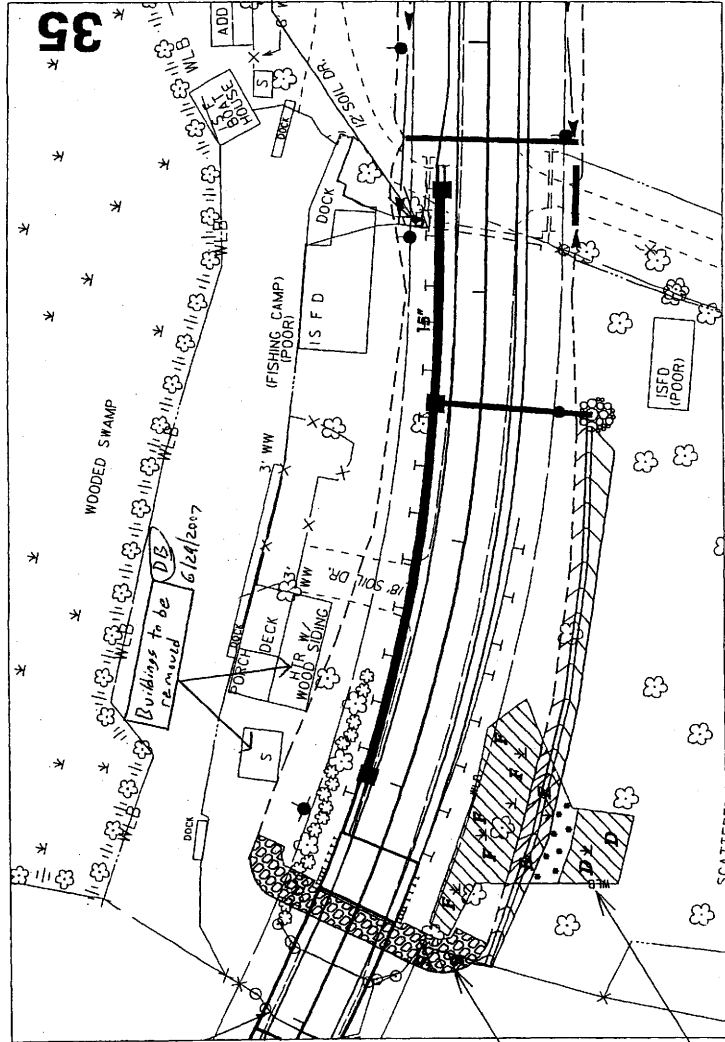
PROJECT REFERENCE NO. SHEET NO.
 AIRWAY DESIGN NUMBER PAYMENT DESIGN NUMBER
 INCOMPLETE PLANS
 DO NOT USE FOR CONSTRUCTION
 PRELIMINARY PLANS
 DO NOT USE FOR CONSTRUCTION

Permit Drawing
 Sheet 4 of 6

Enlarged View

131

Site 4



- Mechanized Clearing in Wetlands
- Fill in Wetlands
- Fill in Surface Waters
- Excavation in Wetlands
- Drained Wetlands



SCALE
 MARCH 14 2007

Site 2

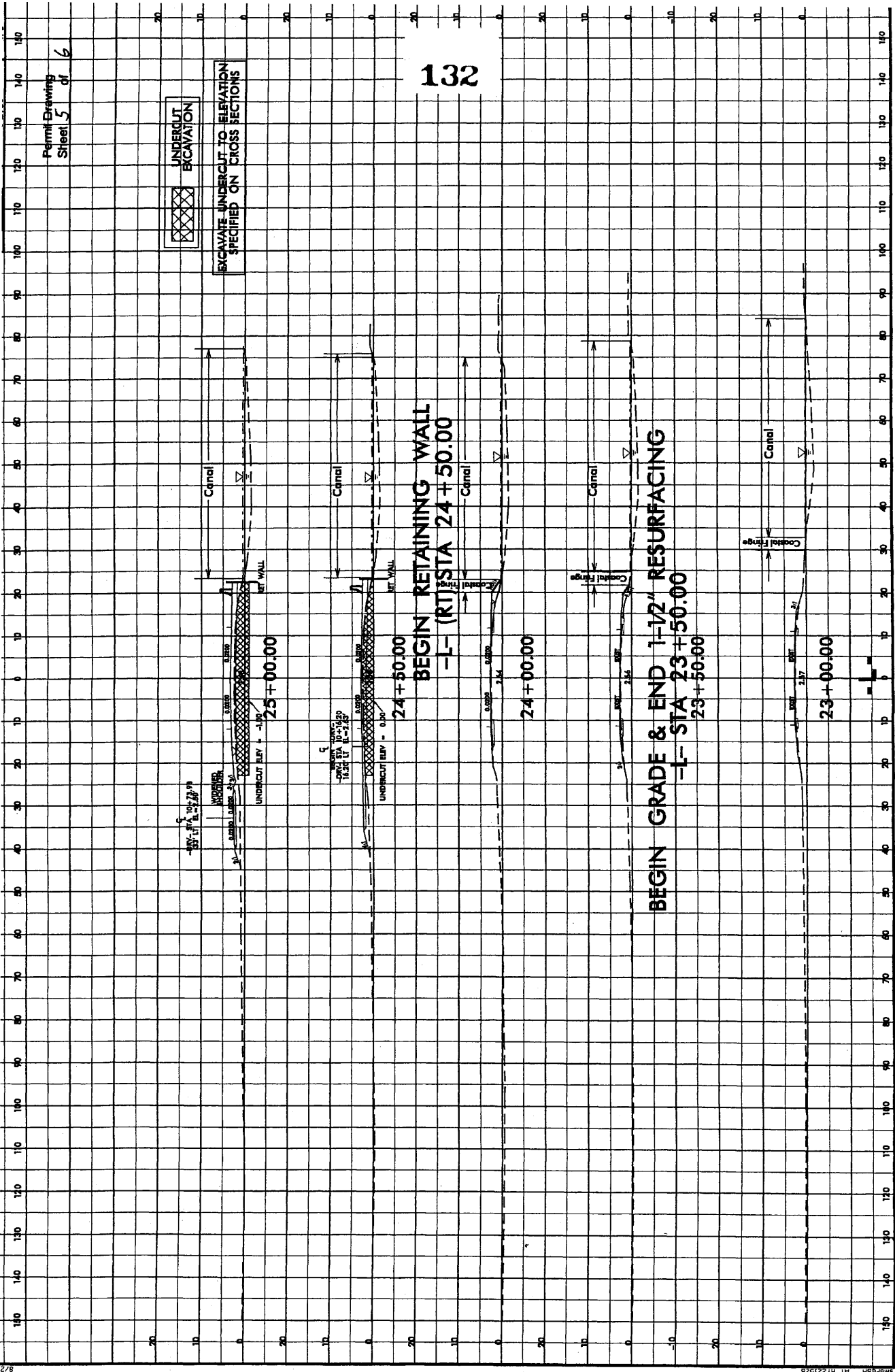
Site 3

Permit Drawing
Sheet 5 of 6

UNDERCUT
EXCAVATION

EXCAVATE UNDERCUT TO ELEVATION
SPECIFIED ON CROSS SECTIONS

132



BEGIN GRADE & END 1-1/2" RESURFACING

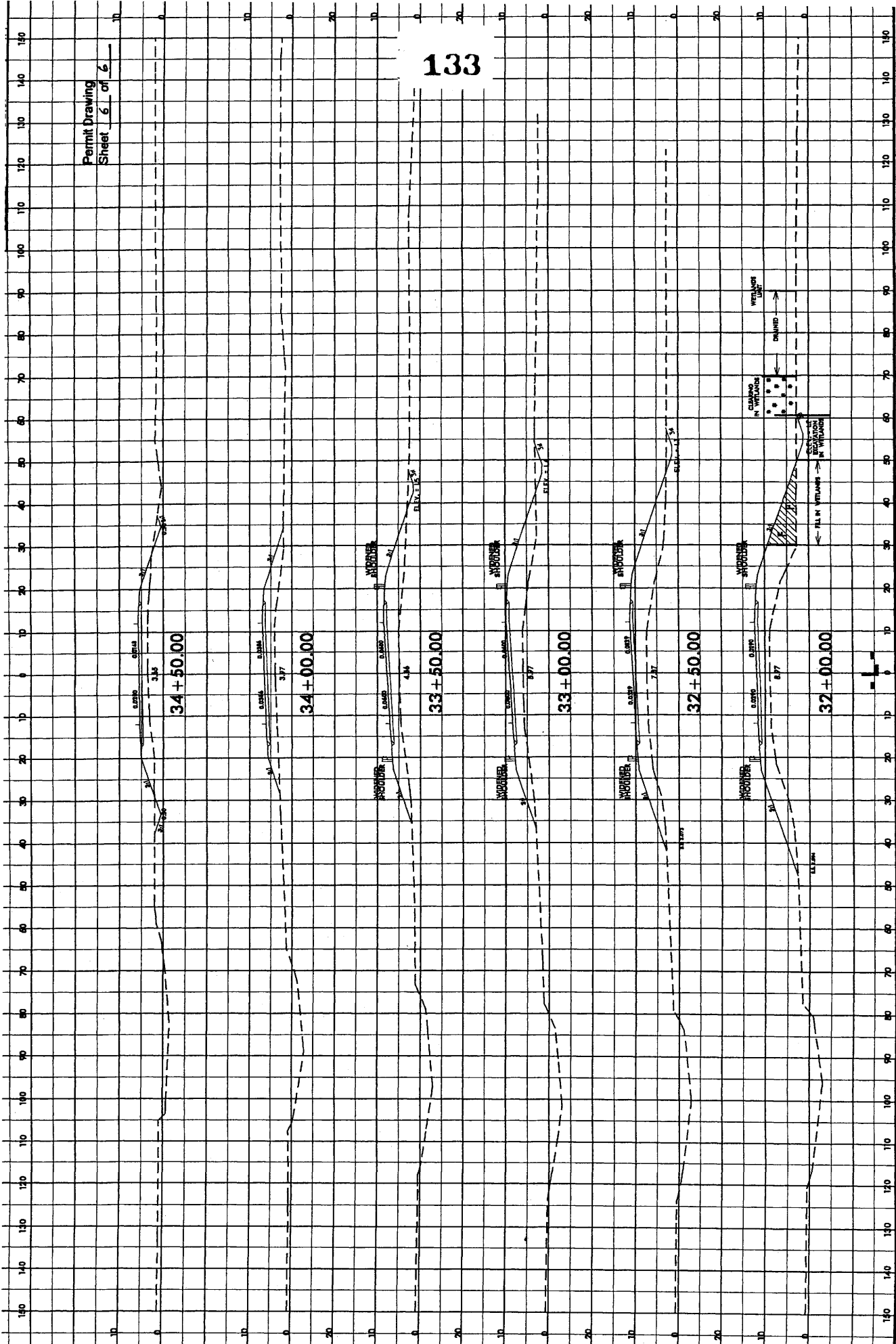
-L- STA 23+50.00
23+50.00

23+00.00

25+00.00

24+50.00

24+00.00



Permit Drawing
Sheet 6 of 6



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

July 18, 2007

Gregory J. Thorpe, Ph.D., Environmental Management Director
Project Development and Environmental Analysis
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

RE: Letter of Refinement, CAMA Major Development Permit No. 102-07, TIP No. B-2950,
Replacement of Bridge No. 4 over Tulls Creek on SR 1222 (Tulls Creek Road), Currituck
County.

Dear Dr. Thorpe:

This letter is in response to the N.C. Department of Transportation's (NCDOT's) letter via e-mail dated 7/11/07 requesting a refinement of four conditions within CAMA Major Permit No. 102-07, which was issued by the N.C. Division of Coastal Management (DCM) on 7/3/07.

Please be advised that through this **Letter of Refinement**, DCM conveys its determination that NCDOT's request to refine the following four permit conditions is consistent with existing State rules and regulations and is in keeping with the original purpose and intent of CAMA Permit No. 102-07 with the following conditions:

1. The refined permit conditions are as follows:

- Permit Condition No. 1 now states: "Due to the classification of Tulls Creek as a Primary Nursery Area, no work shall be conducted within Tulls Creek or the adjacent CAMA coastal wetlands between February 15th to September 30th of any year without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the N.C. Wildlife Resources Commission."
- Permit Condition No. 10 now states: "The pile installation practice for the bridge shall be accomplished using pile driving and/or vibratory hammer. Should the permittee determine that another type of pile installation, such as jetting or drilled shaft construction, is preferred, additional authorization from DCM shall be required."

1638 Mail Service Center, Raleigh, North Carolina 27699-1638
Phone: 919-733-2293 \ FAX: 919-733-1495 \ Internet: <http://dcm2.enr.state.nc.us>

135

- Permit Condition No. 26 now states: “The retaining walls shall be installed using pile driving and/or vibratory hammer. Should the permittee determine that another type of installation is preferred, additional authorization from DCM shall be required.”
 - Permit Condition No. 42 now states: “Subaqueous lines shall be placed at a minimum depth of six feet below the project depth of federal projects. In other areas they shall be installed a minimum depth of two feet below the bottom contour.”
 - The NOTE on page 5 of the original permit now states: “The applicant should contact the Currituck County Water Department to arrange a site visit to confirm water line locations, prior to construction.”
2. This Letter of Refinement does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.
 3. This Letter of Refinement shall be attached to the original of CAMA Permit No. 102-07, which was issued on 7/3/07, and both documents shall be readily available on site when a Division representative inspects the project for compliance.
 4. All conditions and stipulations of the active permit remain in force under this Letter of Refinement unless altered herein.

Please contact Cathy Brittingham via e-mail at Cathy.brittingham@ncmail.net or via telephone at (919) 733-2293 x238 if you have any questions or concerns.

Sincerely,



Doug Huggett
Major Permits and Consistency Coordinator

Cc: Bill Biddlecome, USACE
David Wainwright, DWQ
Jim Hoadley, DCM
Lynn Mathis, DCM

136

Subject: B-2950 CAMA Permit Letter of Refinement Request

From: "David E. Bailey" <debailey@dot.state.nc.us>

Date: Wed, 11 Jul 2007 07:35:41 -0400

To: Cathy Brittingham <Cathy.Brittingham@ncmail.net>

CC: Chris Rivenbark <crivenbark@dot.state.nc.us>

Cathy,

As you are aware, the North Carolina Department of Transportation (NCDOT) proposes to replace existing Bridge No. 4 on SR 1222 over Tulls Creek in Currituck County. Please find below four CAMA permit conditions that NCDOT wishes to be refined to facilitate better understanding of the conditions:

Sincerely,

-Dave Bailey

1) Due to the classification of Tulls Creek as a Primary Nursery Area, no in-water work or in-marsh work shall be conducted between February 15th to September 30th of any year without prior approval of DCM, in consultation with the N.C. Wildlife Resources Commission and the N.C. Division of Marine Fisheries. For the purposes of this moratorium, in-water is defined as those areas that are inundated at normal water level, including the waters or contiguous inundated wetlands of Tulls Creek.

NCDOT requests that the language in Permit Condition 1 be changed to match the language authorized in the email from USACE Rep. Bill Biddlecome dated 6/6/2007, pertaining to the CWA Sec. 404 GP 31 permit (USACE ORM ID: SAW-2007-1550-127) condition "b" language: "The NCDOT will adhere to an instream moratorium of February 15 to September 30 within the waters of Tulls Creek and its adjacent wetlands during periods of inundation with an active connection to Tulls Creek."

10) The pile installation practice for the bridge shall be accomplished using a vibratory hammer. Should the permittee determine that another type of pile installation, such as jetting or drilled shaft construction, is preferred, additional authorization from DCM shall be required.

NCDOT requests that the language in Permit Condition 10 be changed such that "pile driving and/or vibratory hammer" replace "vibratory hammer" in the first sentence. NCDOT believes that specifying a "vibratory hammer" unnecessarily constrains the contractor to a specific piece of equipment when simple pile driving could be sufficient.

26) The retaining walls shall be installed using a vibratory hammer. Should the permittee determine that another type of installation is preferred, additional authorization from DCM shall be required.

NCDOT requests that the language in Permit Condition 26 be changed such that "pile driving and/or vibratory hammer" replace "vibratory hammer" in the first sentence. NCDOT believes that specifying a "vibratory hammer" unnecessarily constrains the contractor to a specific piece of equipment when simple pile driving could be sufficient.

42) Subaqueous lines shall be placed at a depth of six feet below the project depth of federal projects. In other areas they shall be installed a minimum depth of two feet below the bottom contour.

NCDOT requests that the language in Permit Condition 42 be changed such that it allows sub aqueous lines a " minimum depth of six feet", just as the other areas are allowed a minimum of 2 feet.

--
David E. Bailey, Environmental Specialist
North Carolina Department of Transportation