



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

December 12, 2003

US Army Corps of Engineers
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, NC 28801-5006

ATTENTION: Mr. Steve Lund
NCDOT Coordinator

Dear Sir:

Subject: **Nationwide 23 permit application.** Replacement of Bridge No. 176 over Reedy Creek on SR 1136, Cabarrus County. Federal Aid Project No. BRZ-1136 (2), State Project No. 8.2663501, TIP Project No. B-3623.

The NC Department of Transportation (NCDOT) proposes to replace existing Bridge No. 176 over Reedy Creek on SR 1136 with a new bridge on new alignment approximately 50 feet west of the existing structure. The new structure will be approximately 150 feet long and 32 feet wide. Traffic will be maintained on the existing structure during construction

IMPACTS TO WATERS OF THE UNITED STATES

No jurisdictional wetlands will be affected by the proposed project. Waters in the project vicinity are part of the Yadkin-Pee Dee River Basin. Project area waters drain to the east and eventually empty into the Rocky River.

There will be no permanent impacts to Reedy Creek. Therefore this project will not require mitigation for wetland and surface water impacts.

BRIDGE DEMOLITION

Bridge No. 176 is composed of timber and steel with the exception of concrete sills. The water level for the creek may be such that the concrete sills are submerged, thereby eliminating any fill into Waters of the United States. If the concrete sills are above the water level, there is potential for the concrete sills to be dropped into Waters of the United States during bridge demolition. The resulting fill associated with the concrete sills is approximately 4.5 yd³. NCDOT will adhere to the Best Management Practices for “Bridge Demolition and Removal” during the removal of Bridge No. 176.

BRIDGE CONSTRUCTION

The bridge will be a 3 span prestress girder bridge (65 ft., 60 ft., 65 ft.). No bents will be in the water, and no temporary workpad will be needed.

FEDERALLY-PROTECTED SPECIES

Plants and animals with federal classifications of Endangered, Threatened, Proposed Endangered, and Proposed Threatened are protected under Endangered Species Act §§7 and 9. As of January 29, 2003, the US Fish and Wildlife Service (USFWS) lists two federally protected species for Cabarrus County (Table 1).

Biological conclusions of “No Effect” were reached for all listed species as reflected in the attached CE dated July 2002. Updated information for the two species: Carolina heelsplitter has no habitat therefore it remains **No Effect**, and Schweinitz’s sunflower has habitat, but after a resurvey on October 14, 2003 by NCDOT Biologists, no species were found, therefore the biological conclusion is **May Effect, but Not Likely to Adversely Affect**.

Table 1. Federally Protected Species for Cabarrus County

SCIENTIFIC NAME	COMMON NAME	STATUS
<i>Lasmigona decorata</i>	Carolina heelsplitter	E
<i>Helianthus schweinitzii</i>	Schweinitz's sunflower	E

“E” denotes Endangered (a species that is in danger of extinction throughout all or a significant portion of its range).

REGULATORY APPROVALS

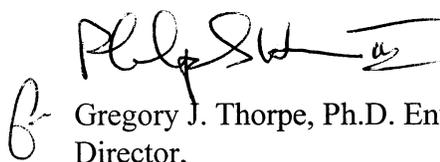
Section 404 Permit: This project is being processed by the Federal Highway Administration as a “Categorical Exclusion” in accordance with 23 CFR 771.115(b). Therefore, we do not anticipate requesting an individual permit, but propose to proceed under a Nationwide 23 as authorized by a Nationwide Permit 23 (FR number 10, pages 2020-2095; January 15, 2002).

Section 401 Permit: We anticipate 401 General Certification number 3361 will apply to this project. In accordance with 15A NCAC 2H .0501(a) we are providing two copies of this application to the North Carolina Department of Environment and Natural Resources, Division of Water Quality, for their records.

A copy of this permit application will be posted on the DOT website at:
<http://www.ncdot.org/planning/pe/naturalunit/Permit.html>.

If you have any questions or need additional information, please contact Chris Manley at (919) 715-1487.

Sincerely,



Gregory J. Thorpe, Ph.D. Environmental Management
Director,
Project Development and Environmental Analysis Branch

cc: w/attachment: Mr. John Dorney, Division of Water Quality (2 copies)
Ms. Marella Buncick, USFWS
Ms. Marla Chambers, NCWRC
Mr. Greg Perfetti, P.E., NCDOT Structure Design

cc w/o attachment: Mr. David Franklin, USACE, Wilmington District Office
Mr. Jay Bennett, P.E., NCDOT Roadway Design
Mr. Omar Sultan, NCDOT Programming and TIP
Ms. Debbie Barbour, P.E., NCDOT Highway Design
Mr. David Chang, P.E., NCDOT Hydraulics Unit
Mr. Mark Staley, NCDOT Roadside Environmental
Mr. Benton G. Payne, P.E., NCDOT Division 10 Engineer
Mr. Larry Thompson, NCDOT Division 10 Environmental Officer



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SECRETARY

December 8, 2003

Brian Cole
US Fish and Wildlife Service
160 Zillicoa Street
Asheville, NC 28801

Dear Mr. Cole:

This letter is in reference to NCDOT's proposed replacement of Bridge No. 176 over Reedy Creek on SR 1136 in Cabarrus County (TIP project B-3623). The purpose of this letter is to summarize federally protected species surveys to date and to request concurrence from the U.S. Fish and Wildlife Service (Service) pursuant to Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (ESA).

The CE for this project was completed in July of 2003. Biological conclusions of no effect were found for all species listed at the time of the CE. There have been no changes made to the list of federally protected species since the CE was written. The current USFWS listing of protected species (January 29, 2003) and current Biological Conclusions are listed in the following table.

Common Name	Scientific Name	Federal Status	Biological Conclusion
Carolina heelsplitter	<i>Lasmigona decorata</i>	Endangered	No Effect
Schweinitz's sunflower	<i>Helianthus schweinitzii</i>	Endangered	May Effect, Not Likely to Adversely Affect

After a review of Reedy Creek by Mr. Tim Savidge on May 17, 2001 it has been determined that no suitable habitat exists for the Carolina heelsplitter. The creek at this location appears to be extremely degraded from excessive sedimentation and streambank erosion. Surveys were conducted from approximately 500 feet downstream to 50 feet upstream of the project crossing. No additional surveys will be needed. A review of the NC Natural Heritage Program database of rare species and unique habitats in December 2003 found no records of the Carolina heelsplitter in the project vicinity (none within 4 miles).

Habitat for Schweinitz's sunflower is present within the maintained/disturbed areas of the project alignment. A plant by plant survey was conducted within areas of suitable habitat on October 13, 2003 by NCDOT biologists. No specimens were found during the survey. A review of the NC Natural Heritage Program database of rare species and unique habitats in December 2003 revealed that no known occurrences of Schweinitz's sunflower occur within the project study area. Therefore, a biological conclusion of "May Effect, Not Likely to Adversely Affect" has been found. Survey methodology and qualifications of the investigators are listed in the following text.

SURVEY METHODOLOGY

Survey methodology for the Carolina heelsplitter involved wading and using a view bucket. Approximately 2 man-hours of survey time were spent in the creek. No live mussels were found, and only one fragment of an eastern elliptio (*Elliptio sp.*) was found.

Survey methodology for the Schweinitz's sunflower involved a walking visual plant by plant search for the species. The search extended well beyond the existing roadway to ensure no populations existed either within or in the immediate vicinity of the proposed widening. A total of 3 man-hours were spent conducting the survey.

QUALIFICATIONS OF PRINCIPAL INVESTIGATORS

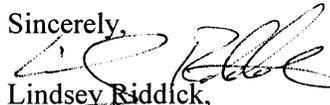
Investigator: Tim Savidge
Education: BS Biology (Guilford College), MS Marine Biology/Biological Oceanography (UNC Wilmington)
Experience: Environmental Specialist, NCDOT, 1992-2002 Environmental Supervisor, Catena Group, 2002-present
Expertise: NEPA Documentation, Terrestrial and Aquatic Ecology, Freshwater mussel biology, Protected species surveys, freshwater mussel surveys (NC-2003ES-58), Section 7 coordination, wetland delineation.

Investigator: Chris Manley
Education: BS Fisheries and Wildlife Sciences/Minor in Botany, North Carolina State University, 1996.
Experience: Wildlife Technician, North Carolina Wildlife Resources Commission, January 1997- February 1996.
Agricultural Consultant, East Coast Agri-Technologies, March 1998- Dec 1999.
Environmental Specialist, NCDOT, June 2003- Present

Investigator: Michael Turchy
Education: BA Geology, Western Carolina University, 2001
Experience: Environmental Specialist, NCDOT, May 2002- Present.

Based on our surveys, NCDOT concludes that the proposed project will have "No Effect" on the Carolina heelsplitter, and "May Effect, Not Likely to Adversely Affect" on Schweinitz's sunflower. We believe that the requirements of Section 7(a)(2) of the ESA have been satisfied and hereby request your concurrence.

Sincerely,



Lindsey Riddick,
Environmental Supervisor,
Office of Natural Environment

cc: Mike Bell, USACE
Beth Smyre, Project Engineer, PDEA
File: U-3823