



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

January 25, 2007

MEMORANDUM TO: Mr. Barry Moose, PE
Division Ten Engineer

FROM: Philip S. Harris, III, P.E., Unit Head
Natural Environment Unit
Project Development and Environmental Analysis Branch *PHS*

SUBJECT: Cabarrus County, Kannapolis Westside Bypass from NC 73
to NC 136; T.I.P. Number U-2009B; State Project
9.81303406

Attached are the modifications to the U. S. Army Corps of Engineers 404 Individual Permit and the 401 Water Quality Certification for the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

Cc:

Mr. Majed Alghandour, P. E., Programming and TIP
Mr. Jay Bennett, P.E., Roadway Design
Dr. David Chang, P.E., Hydraulics
Mr. Randy Garris, P.E. State Contract Officer
Mr. Art McMillan, P.E., Highway Design
Mr. Greg Perfetti, P.E., Structure Design
Mr. Mark Staley, Roadside Environmental
Mr. John F. Sullivan, FHWA
Ms. Teresa Hart, P.E., PDEA Western Region Unit Head
Mr. Larry Thompson, RS, PWS, Division Environmental Officer

PROJECT COMMITMENTS

**Kannapolis Westside Bypass
Cabarrus County
From NC 73 to NC 136
State Project No. 9.8103406
T.I.P. No. U-2009B**

No additional special commitments have been developed through the 401/404 Permit Modification and Renewal process since the December 9, 2003 Preconstruction Greensheet.

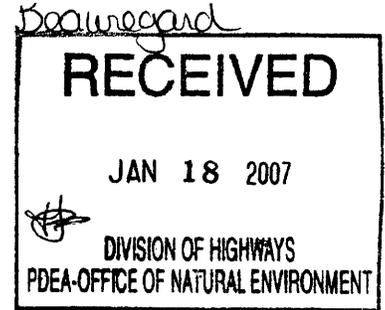


IN REPLY REFER TO

**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS**

P. O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

January 16, 2007



Regulatory Division

Action ID No. 200231069, TIP U-2009 B

Gregory J. Thorpe, Ph.D., Director
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

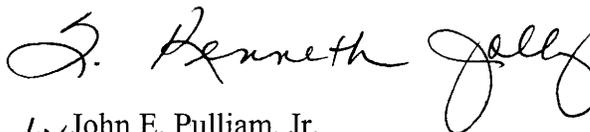
Dear Dr. Thorpe:

Reference the Department of the Army permit issued on December 4, 2003 to the North Carolina Department of Transportation to discharge dredged or fill material into 1.17 acres of wetland and 1141 linear feet of stream channel in the waters and adjacent wetlands of Afton Run and an unnamed tributary of Irish Buffalo Creek to construct 4.2 miles of the Kannapolis Westside Bypass from NC Highway 73 north to NC Highway 136 west of Kannapolis, Cabarrus County, North Carolina (TIP No. U-2009 B). Also reference your written request of December 21, 2006 to install 130 linear feet of riprap bank stabilization at Permit Site No. 6, Station No. 11+00, on an unnamed tributary to Afton Run and to extend the expiration date of the permit.

The permit is hereby modified to include the work as shown on the enclosed plans and the expiration date is extended to June 30, 2007. As outlined in the December 18, 2006 letter from William D. Gilmore, Ecosystem Enhancement Program (EEP) Director, the EEP will provide and additional 260 linear feet of restoration of warm water stream channel in the Yadkin River Basin to offset the impacts associated with the permit modification. It is understood that all other conditions of the original permit remain applicable.

If you have any questions, please contact Mr. Steven Lund, Asheville Field Office, Regulatory Division, telephone (828) 271-7980, extension 223.

Sincerely,



for John E. Pulliam, Jr.
Colonel, U.S. Army
District Commander

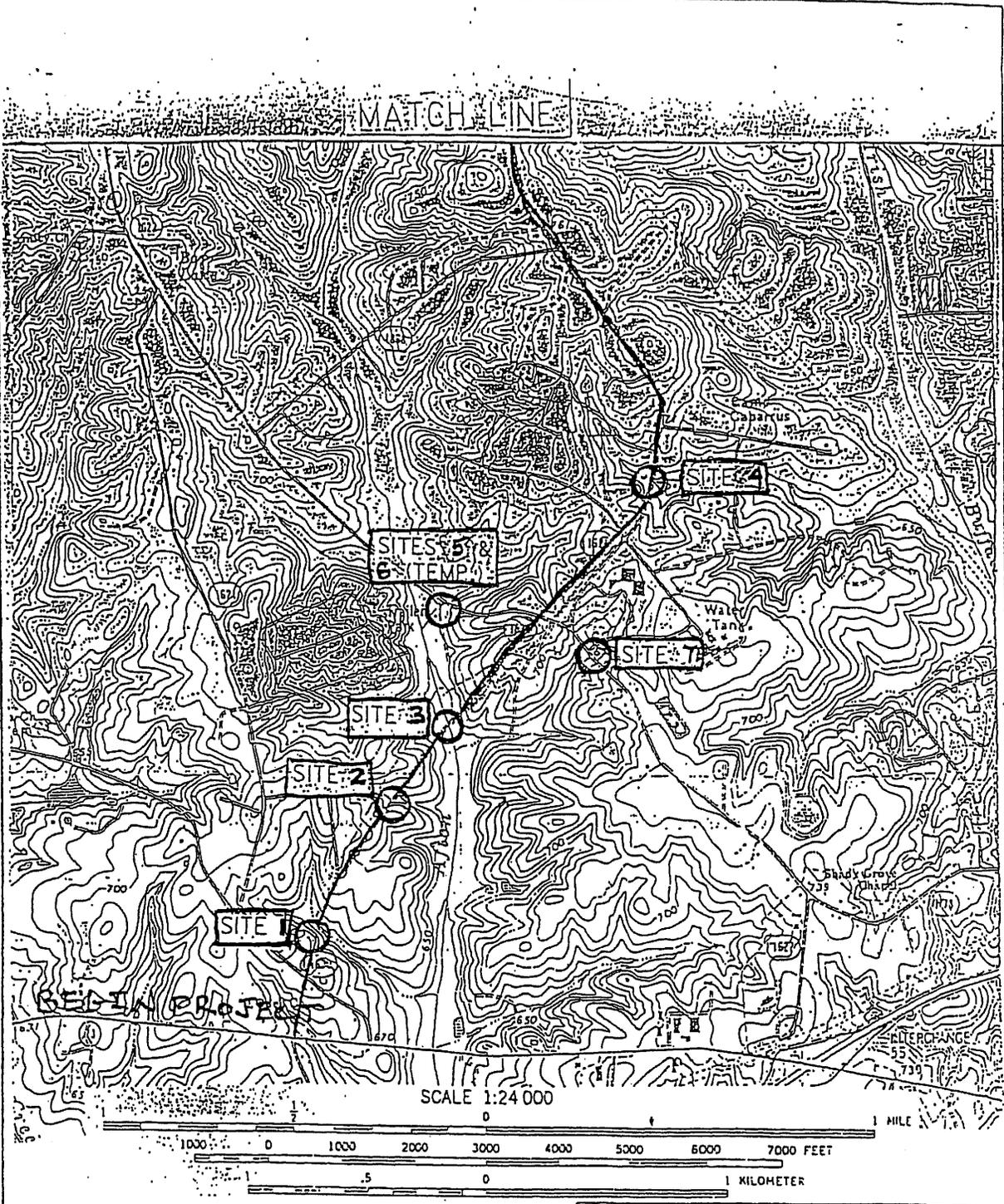
Enclosures

Copies furnished w/enclosures:

Director, Atlantic Marine Center
National Ocean Survey, NOAA
Attention: CAM04
439 West York Street
Norfolk, Virginia 23510

Mr. Barry Moose, PE, Division Engineer
NC Department of Transportation, Division 10
716 West Main Street
Albemarle, North Carolina 28001

Mr. William D. Gilmore, Director
NC Ecosystem Enhancement Program
1652 Mail Service Center
Raleigh, North Carolina 27699-1652



SITE MAP

N. C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 9.8105406 (U-2009B)
 KANNAPOLIS WEST SIDE BYPASS
 FROM NC 75 TO NC 136
 DATE: 5/26/98
 REV. DATE: OCT., 2001
 SHEET 2 OF 20

END PROJECT

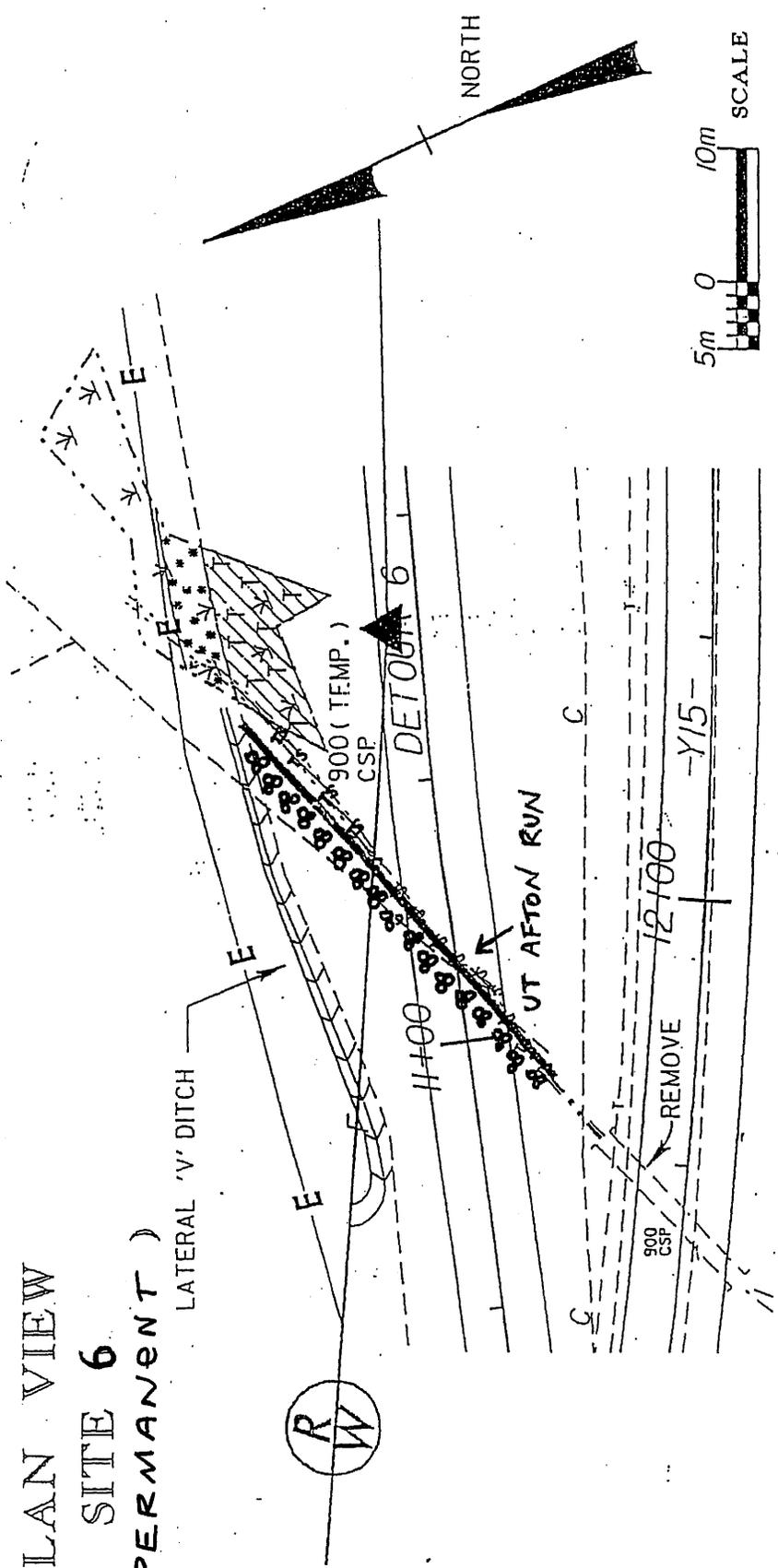


MATCH LINE

SITE MAP

N. C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
CABARRUS COUNTY
PROJECT: 9.8105406 (U-2009B)
KANNAPOLIS WEST SIDE BYPASS
FROM NC 73 TO NC 136
DATE: 5/26/98
REV. DATE: OCT., 2001
SHEET 3 OF 20

PLAN VIEW
SITE 6
(PERMANENT)

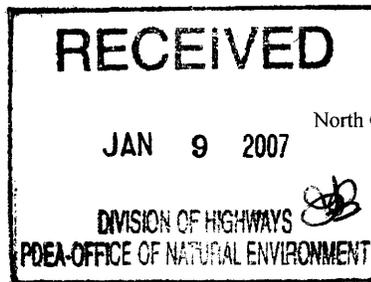


N. C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
CABARRUS COUNTY
PROJECT: 9.8103406 (U-2009B)
KANNAPOLIS WEST SIDE BYPASS
FROM NC 73 TO NC 136
DATE: 12/19/06
REV. DATE: OCT., 2001
SHEET 16a OF 20

= Rip Rap (Permanent Impact)
130 FT (39.6 m)
 DENOTES MECHANIZED CLEARING

DENOTES TEMPORARY FILL IN WETLANDS
 DENOTES TEMPORARY FILL IN SURFACE WATERS

NO LONGER APPLICABLE



Beauregard

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

January 5, 2007

Dr. Greg Thorpe, Ph.D., Manager
Planning and Environmental Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina, 27699-1548

Subject: First Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for the Kannapolis Westside Bypass from NC 73 to NC 136 in Cabarrus County, State Project No. 9.8103406, WBS Element 34772.1.5, TIP U-2009B, DWQ Project No. 02-0878

Dear Dr. Thorpe:

Attached hereto is a modification of Certification No. 3436 issued to The North Carolina Department of Transportation (NCDOT) and dated October 8, 2003. This modification is applicable only for the additionally proposed activities. All authorized activities and conditions associated with the original Water Quality Certification, dated October 8, 2003, still apply except where superceded by this certification.

If we can be of further assistance, please do not hesitate to contact Polly Lespinasse at (704) 663-1699.

Sincerely,

for Alan W. Klimek, P.E.
Director

Attachments

cc: Steve Lund, US Army Corps of Engineers Asheville Field Office
Larry Thompson, Division 10 Environmental Officer
Marla Chambers, NC Wildlife Resources Commission
Marella Buncick, US Fish and Wildlife Service
Sonia Gregory, DWQ Central Regional Office
File Copy

One North Carolina
Naturally

North Carolina Division of Water Quality
Internet: h2o.enr.state.nc.us

610 East Center Avenue, Suite 301
Mooresville, NC 28115

Phone (704) 663-1699
Fax (704) 663-6040

Should your project change, you are required to 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 any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Condition(s) of Certification:

1. Permanent stream impacts due to the placement of riprap in the stream channel and on the banks will result in an additional loss of 130 linear feet of stream. We understand that you have chosen to satisfy mitigation for the 130 linear feet of impacts to streams through an in-lieu payment to the North Carolina Ecosystem Enhancement Program (EEP). EEP has indicated in a letter dated December 18, 2006, that they will assume responsibility for satisfying the Federal Clean Water Act compensatory mitigation requirements for this project.
2. Erosion and sediment control practices must utilize Best Management Practices (BMP) and be in full compliance with all specifications governing the proper design, installation, and operation and maintenance of such BMP in order to protect surface water standards:
 - a. 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 pit sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - b. 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*.
 - c. The reclamation measures and implementation of these measures must be in accordance with the requirements of the Sedimentation Pollution Control Act.
3. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify the DWQ when all work included in the 401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the Division of Water Quality upon completion of the project.
4. All other conditions written into the previous Water Quality Certification, dated October 8, 2003 for the project still apply.
5. Continuing Compliance. NCDOT shall conduct its activities in a manner so as not to contravene any state water quality standard [including any requirements for compliance with section 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 to include conditions appropriate to assure compliance with such standards and requirements in accordance with 15 A NCAC 2H.0507(d).

Before codifying the certification, DWQ shall notify NCDOT and the USACE, provide public notice in accordance with 15A NCAC 2H.0503, and provide opportunity for public hearing in accordance with 15A NCAC 2H.0504. Any new or revised conditions shall be provided to NCDOT in writing, shall be provided to the USACE for reference in any permit issued pursuant to Section 404 of the Clean Water Act, and shall also become conditions of the 404 Permit for the project.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 Permit. This Certification shall expire upon the expiration of the 404 Permit.

If this Certification is unacceptable to you, have the right to an adjudicatory hearing upon written request within sixty (60) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. If modifications are made to an original Certification, you have the right to an adjudicatory hearing on the modifications upon written request within sixty (60) days following receipt of the Certification. Unless such demands are made, this Certification shall be final and binding.

This the 5th day of January 2007

DIVISION OF WATER QUALITY

A handwritten signature in black ink, appearing to read "Michael J. Parker". The signature is written in a cursive, flowing style.

for Alan W. Klimek, P.E.
Director

WQC No. 3436

Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS

THIS 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 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 1.17 acres of jurisdictional wetlands and 1,127 linear feet of jurisdictional streams in Cabarrus County. The project shall be constructed pursuant to the modification received December 28, 2006. The authorized impacts are as described below:

Stream Impacts in the Yadkin River Basin

| Site | Permanent Fill in Intermittent Stream (linear ft) | Temporary Fill in Intermittent Stream (linear ft) | Permanent Fill in Perennial Stream (linear ft) | Temporary Fill in Perennial Stream (linear ft) | Total Stream Impact (linear ft) | Stream Impacts Requiring Mitigation (linear ft) |
|--|---|--|--|--|---------------------------------|---|
| Original approved impacts at Site 1 | | | 308 | | | |
| Original approved impacts at Site 2 | | | 197 | | | |
| Original approved impacts at Site 4 | | | 177 | | | |
| Original approved impacts at Site 5 | 121 | | | | | |
| Additional impacts approved at Site 6 | | *originally approved temporary impacts now permanent | 130 | | | |
| Original approved impacts at Site 7 | | | 194 | | | |
| Total | 121 | | 1,006 | | 1,127 | |

Total Stream Impact for Project: 1,127 linear feet

130 linear feet of additional permanent impact are authorized under this modification and 144 linear feet of temporary impact previously authorized is no longer applicable

Wetland Impacts in the Yadkin River Basin

| Site | Fill (ac) | Fill (temporary) (ac) | Excavation (ac) | Mechanized Clearing (ac) | Hand Clearing (ac) | Area under Bridge (ac) | Total Wetland Impact (ac) |
|-------------------------------------|-------------|-----------------------|-----------------|--------------------------|--------------------|------------------------|---------------------------|
| Original approved impacts at Site 2 | 0.0002 | | | 0.01 | | | 0.01 |
| Original approved impacts at Site 3 | 0.84 | | | 0.12 | | | 0.96 |
| Original approved impacts at Site 4 | 0.14 | | | 0.03 | | | 0.17 |
| Original approved impacts at Site 6 | | 0.02 | | 0.01 | | | 0.03 |
| Total | 0.98 | 0.02 | | 0.17 | | | 1.17 |

Total Wetland Impact for Project: 1.17 acres

No additional wetland impacts are authorized under this modification.

The application provides adequate assurance that the discharge of fill material into the waters and wetlands of the Yadkin River Basin in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your modified application received December 28, 2006. All authorized activities and conditions associated with the original Water Quality Certification dated October 8, 2003 still apply except where superseded by this Certification.

Certificate of Completion

DWQ Project No. _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

Upon completion of all work approved within the 401 Water Quality Certification and 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 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 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: _____

If this project was designed by a Certified Professional

I, _____, as a duly registered Professional _____ (i.e., Engineer, Landscape Architect, Surveyor, etc.) 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 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: _____