



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

JAMES H. TROGDON, III  
SECRETARY

August 13, 2018

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

ATTN: Ms. Nicholle Braspenickx, NCDOT Regulatory Coordinator

Subject: **Request for Permit Modification for Individual Section 404 and Section 401 Water Quality Certification for the I-77 HOT Lanes Project** in Mecklenburg County, Division 10; Federal Aid Project No. NHF-077-1(209)9, WBS Nos. 45454.1.1  
**TIP: I-5405** Debit \$570 from WBS 45454.1.1

Reference: USACE 404 Individual Permit (Action ID SAW-2012-00156), dated January 28, 2016 for the Central Section,  
USACE 404 Individual Permit (Modification), dated May 20, 2016, for the North Section,  
USACE 404 Individual Permit (Modification), dated November 24, 2016, for the South Section  
USACE 404 Individual Permit (Modification), dated June 23, 2017 (attached)

DWR 401 Certification No. 20150931, dated November 13, 2015 for the Central Section,  
DWR 401 Certification No. 20150931v.2, dated June 28, 2016, for the North Section,  
DWR 401 Certification No. 20150931v.3, dated November 22, 2016  
DWR 401 Certification No. 20150931v.4, dated July 14, 2017 (attached)

Dear Madam,

As construction activities progress on the above-referenced project, the proposed steep slopes have resulted in an unconstructible design, as roadway fill slopes will need to extend farther than originally proposed in the median of Interstate 77.

This modification results in the impact change from bank stabilization to permanent stream fill, to UT to Torrence Creek (Intermittent) at Site 5C.

Below is the original (permitted) impact description from the December 12, 2016 Permit Application:

*Stream Permit Site 5-C: To accommodate the widening to the median, a 35 lf extension of a 30" RCP, and 65 lf of bank stabilization will be required. In addition, there will be <0.01 acre (17 lf) of temporary stream impacts associated with these activities.*

The impact description at this site remains accurate, but the 30" reinforced concrete pipe will now need to be extended 14 additional feet from 35 to 49 linear feet. This reduces the amount of bank stabilization that will be needed from 65 feet to 51 feet.

Mailing Address:  
NC DEPARTMENT OF TRANSPORTATION  
ENVIRONMENTAL ANALYSIS UNIT  
1598 MAIL SERVICE CENTER  
RALEIGH NC 27699-1598

Telephone: (919) 707-6000  
Customer Service: 1-877-368-4968  
Website: [www.ncdot.gov](http://www.ncdot.gov)

Location:  
1020 BIRCH RIDGE DRIVE  
RALEIGH NC 27610

There are no changes to the temporary impact at this site, or any other permit site on the project.

This revision at Site 5C (**displayed in red**) modifies the project impacts noted below:

Project Section	HUC	Permanent		Temporary (lf)	USACE Mitigation (lf)	DWR Mitigation (lf)
		Fill in Channel (lf)	Bank Stabilization (lf)			
Central	03050101	179 + 14 = 193	225 - 14 = 211	491	179 + 14 = 193	174
North		27	23	298	27	-
<b>Totals in 03050101</b>		<b>206 + 14 = 220</b>	<b>248 - 14 = 234</b>	<b>789</b>	<b>206 + 14 = 220</b>	<b>174</b>
		<b>454</b>				
South	03050103	1,390	10	2,368	1,390	1,189
<b>Totals in 03050103</b>		<b>1,400</b>		-	-	-
<b>Project Totals</b>		<b>1,596 + 14 = 1,610</b>	<b>258 - 14 = 244</b>	<b>3,157</b>	<b>1,596 + 14 = 1,610</b>	<b>1,363</b>
		<b>1,854</b>				

Please find attached Division of Mitigation Acceptance Letter accepting this additional mitigation liability, revised Permit Drawing (Sheet 16 of 27), and revised Impact Summary Table (Sheet 27 of 27).

Application is hereby made for a modification to the Department of the Army Individual Permit and Water Quality Certification for the above-described activities.

Thank you for your assistance with this project. If you have any questions or need additional information, please contact Michael Turchy at [maturchy@ncdot.gov](mailto:maturchy@ncdot.gov). A copy of this permit application and its distribution list will also be posted on the NCDOT website at <https://connect.ncdot.gov/resources/Environmental/Pages>.

Sincerely,



Philip S. Harris III, P.E., C.P.M.  
Environmental Analysis Unit Head

cc: NCDOT Standard Permit Application Distribution List



July 30, 2018

Mr. Philip S. Harris, P.E., CPM  
Environmental Analysis Unit  
North Carolina Department of Transportation  
1598 Mail Service Center  
Raleigh, North Carolina 27699-1598

Dear Mr. Harris:

Subject: DMS Mitigation Acceptance Letter:

**I-3311C / I-5405A / I-4750AA, I-77 HOT Lanes, Mecklenburg County**

References: USACE 404 Individual Permit issued January 28, 2016 (USACE Action ID 2012-00156) and modifications issued May 20, 2016, November 24, 2016 and June 23, 2017

NCDWR 401 Water Quality Certification issued November 13, 2015 (NCDWR ID 2015-0931) and modification issued November 22, 2016

The purpose of this letter is to notify you that the Division of Mitigation Services (DMS) will provide the additional compensatory stream mitigation for the subject project. Based on the information supplied by you on July 27, 2018, the impacts are located in CU 03050101 of the Catawba River basin in the Southern Piedmont (SP) Eco-Region, and are as follows:

**Table 1 – Additional Impacts (feet / acres)**

Catawba 03050101 SP	Stream			Wetlands			Buffer (Sq. Ft.)	
	Cold	Cool	Warm	Riparian	Non-Riparian	Coastal Marsh	Zone 1	Zone 2
Impacts (feet/acres)	0	0	14.0	0	0	0	0	0

\*NOTE: Some of the stream impacts may be proposed to be mitigated at a 1:1 mitigation ratio. See permit application for details.

This additional impact and associated mitigation needs located in Catawba 03050101 were not projected by the NCDOT in the 2018 impact data. The NCDOT is not proposing any additional impacts to streams in Catawba 03050103 at this time. DMS is currently providing stream and wetland mitigation for the impacts associated with this project located in cataloging units 03050101 and 03050103 of the Catawba River basin as required by the 404 and 401 permits issued in 2016 and 2017, as shown in the below table (in mitigation credits)



**Table 2 – Current Permitted Impacts and Associated Mitigation Requirements provided by DMS (based on issued permits) and Revised Anticipated Impacts (based on mitigation request)**

Impact Type	Total Permitted Impacts (feet / acre / sq ft)	Mitigation Provided by DMS per Issued Permits (Credits)	Additional Impact (for approval)	Revised Total Impacts*
Catawba 01 - Stream (warm)	206.0	412.0	14.0	220.0
Catawba 03 – Stream (warm)	1,390.0	3,202.0	0	1,390.0

\*Some of the additional stream impacts may be proposed to be mitigated at a 1:1 mitigation ratio. See permit application for details. DMS will provide the amount of mitigation as determined by the regulatory agencies.

DMS commits to implementing additional sufficient compensatory stream mitigation credits to offset the impacts associated with this project as determined by the regulatory agencies using the delivery timeline listed in Section F.3.c.iii of the In-Lieu Fee Instrument dated July 28, 2010. If the above referenced impact amounts are revised, then this mitigation acceptance letter will no longer be valid and a new mitigation acceptance letter will be required from DMS.

If you have any questions or need additional information, please contact Ms. Beth Harmon at 919-707-8420.

Sincerely,



James B. Stanfill  
DMS Asset Management Supervisor

cc: Ms. Nicholle Braspenickx, USACE – Asheville Regulatory Field Office  
Ms. Amy Chapman, Division of Water Resources, Wetlands/401 Unit  
File: I-3311C / I-5405A / I-4750AA Additional

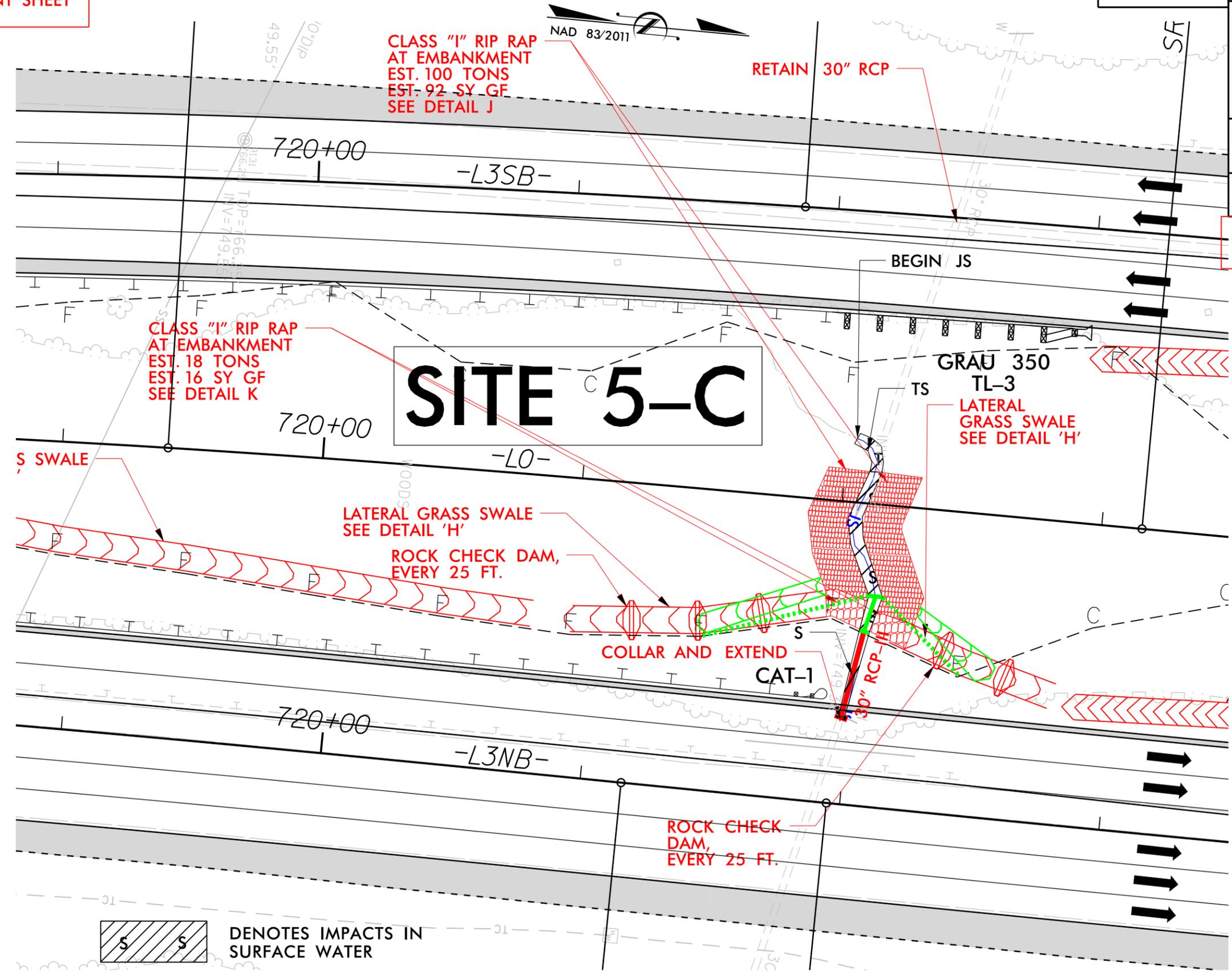


INCOMPLETE PLANS  
DO NOT USE FOR R/W ACQUISITION  
PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION

sugar creek  
construction, LLC

Louis Berger

PERMIT DRAWING  
SHEET 16 OF 27



 DENOTES IMPACTS IN SURFACE WATER

 DENOTES TEMPORARY IMPACTS IN SURFACE WATER

WETLAND PERMIT IMPACT SUMMARY													
Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS					SURFACE WATER IMPACTS					
			Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)	
1-C	371+40 - 372+80 RT	TEMP. FILL / ACCESS	< 0.01	0.06									
2-C	388+12 - 388+58 RT	TEMP. FILL / ACCESS BANK STABILIZATION							0.01		40	60	
3-C	407+60 - 411+90 RT	TEMP. FILL							0.03			150	
4-C	709+50 MID	FILL						< 0.01			33		
5-C	721+97 - 722+03 MED	30" RCP BANK STABILIZATION						< 0.01	< 0.01		<del>35</del> 49 <del>65</del> 51	17	
6-C	776+15 - 776+25 MED	8' x 7' RCBC BANK STABILIZATION						< 0.01			36 21		
	776+15 - 776+25 LT/RT	8' x 7' RCBC / DEWATERING							< 0.01			42	
7-C	955+50-956+05 MED	2@10'x8' RCBC/CHAN. PROT. BANK STABILIZATION						0.04			75 99		
	955+50-956+05 LT/RT	2@10'x8' RCBC / DEWATERING							0.02			40	
TOTALS*:			< 0.01	0.06				0.07	0.08		404	309	0

\*Rounded totals are sum of actual impacts

NOTES:

NC DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 18-05-2017  
 MECKLENBURG  
 I-5405 / I-4750AA  
 Central Section  
 SHEET 27 OF 27



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



June 23, 2017

Regulatory Division

Action ID No. SAW-2012-00156

North Carolina Department of Transportation,  
 Project Development and Environmental Analysis Unit  
 Attn: Mr. Philip S. Harris III, P.E.,  
 1548 Mail Service Center  
 Raleigh, North Carolina 27699-1598

Dear Mr. Harris:

Please reference the Department of the Army permit issued on January 28, 2016 and the permit modifications issued May 20, 2016 and November 24, 2016 for the I-77 High Occupancy Toll (HOT) lanes project (TIP #s I5405, I4750AA and I3311C) which starts north of NC 150 in Iredell County and continues south along I-77, deviating from I77 at the I-277 interchange and following I-277 to terminate at North Brevard Street in Charlotte, Mecklenburg County, North Carolina. The January 28, 2016 permit authorized final impacts for the Central Section of the project and preliminary impacts for the South and North Sections. The May 20, 2016 permit modification authorized the final impacts for the North Section and the November 24, 2016 permit modification authorized the final impacts for the South Section. Total impacts authorized include the permanent impact to 4,162 linear feet of stream channel (of which 225 linear feet is bank stabilization), <0.01 acre of wetland, and <0.01 acre of open water. Temporary impacts include impacts to 491 linear feet of stream channel, 0.1 acre of wetland, and 0.06 acres of open water. Please additionally reference your May 19, 2017, letter requesting authorization for minor modifications to the final permitted plans for the Central and South Sections. The modifications will result in the following changes to previously permitted impacts:

Impact Site	Previously Permitted Stream Impact (If)			Modified Stream Impact (If)			Change in Stream Impact (If)		
	Permanent Fill	Permanent Impact	Temporary Impact	Permanent Fill	Permanent Impact	Temporary Impact	Permanent fill	Permanent Impact	Temporary Impact
6-C (Central)	26	21	42	36	21	42	+10	0	0
7-C (Central)	91	99	40	75	99	40	-16	0	0
3C-S (South)	0	0	45	0	0	85	0	0	+40
<b>Total change in impact</b>							<b>-6</b>	<b>0</b>	<b>+40</b>

\*Changes to impacts highlighted in yellow.

Total modified impacts for each section are shown below:

	<b>Permanent Wetland Impact</b>	<b>Temporary Wetland Impact</b>	<b>Permanent Stream Impact*</b>	<b>Temporary Stream Impact</b>
Central	<0.1	.06	404	491
North	0	0	50	298
South	0	0.17	1400	2368
<b>Total</b>	<b>&lt;0.1</b>	<b>0.23</b>	<b>1854</b>	<b>3157</b>

**\*Permanent Stream Impact includes both permanent fill and permanent impact**

After review of the file and the modification request we have determined that the proposed changes to the permit are minor, and that a supplemental public notice is not necessary. Accordingly your permit is hereby modified and a copy of the modified plans are enclosed.

**The total impacts authorized by the January 28, 2016, permit the May 20, 2016 and the November 24, 2016 permit modifications and this modification include the permanent impacts to 1,854 linear feet of stream channel (of which 258 linear feet is bank stabilization), <0.01 acre of wetland, and <0.01 acre of open water. Temporary impacts include 3,157 linear feet of stream channel, 0.23 acre of wetland, and 0.12 acres of open water.**

The decrease of 6 lf of permanent stream fill impacts within the Central Section resulting from this modification will require reduced compensatory mitigation at a 2:1 ratio (mitigation to impacts). In order to compensate for impacts for this project, mitigation shall be provided by the Division of Mitigation Services (DMS) in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit authorization. **Only mitigation for the Central Section will be effected by this modification and mitigation requirements for the South and North Section will remain the same.**

It is understood that all other conditions of the original permit remain applicable. You should address all questions regarding this authorization to Ms. Crystal Amschler at the Asheville Regulatory Field Office, telephone (828) 271-7980 extension 4231.

Sincerely,



Kevin P. Landers, Sr.  
Colonel, U.S. Army  
District Commander

**U.S. ARMY CORPS OF ENGINEERS**  
**Wilmington District**  
**Compensatory Mitigation Responsibility Transfer Form**

**Permittee:** North Carolina Department of Transportation  
**Project Name:** The I-77 High Occupancy Toll (HOT) lanes project (TIP #s I5405, I4750AA and I3311C) For Central Section

**Action ID:** SAW-SAW-2012-00156  
**County:** Mecklenburg

**Instructions to Permittee:** The Permittee must provide a copy of this form to the Mitigation Sponsor, either an approved Mitigation Bank or the North Carolina Division of Mitigation Services (NCDMS), who will then sign the form to verify the transfer of the mitigation responsibility. Once the Sponsor has signed this form, it is the Permittee's responsibility to ensure that to the U.S. Army Corps of Engineers (USACE) Project Manager identified on page two is in receipt of a signed copy of this form before conducting authorized impacts, unless otherwise specified below. If more than one mitigation Sponsor will be used to provide the mitigation associated with the permit, or if the impacts and/or the mitigation will occur in more than one 8-digit Hydrologic Unit Code (HUC), multiple forms will be attached to the permit, and the separate forms for each Sponsor and/or HUC must be provided to the appropriate mitigation Sponsors.

**Instructions to Sponsor:** The Sponsor must verify that the mitigation requirements (credits) shown below are available at the identified site. By signing below, the Sponsor is accepting full responsibility for the identified mitigation, regardless of whether or not they have received payment from the Permittee. Once the form is signed, the Sponsor must update the bank ledger and provide a copy of the signed form and the updated bank ledger to the Permittee, the USACE Project Manager, and the Wilmington District Mitigation Office (see contact information on page 2). The Sponsor must also comply with all reporting requirements established in their authorizing instrument.

**Permitted Impacts and Compensatory Mitigation Requirements:**

<b>Permitted Impacts Requiring Mitigation*</b>			<b>8-digit HUC and Basin: 03050101, Catawba River Basin</b>			
Stream Impacts (linear feet)			Wetland Impacts (acres)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-Riverine	Non-Riparian	Coastal
179						

\*If more than one mitigation sponsor will be used for the permit, only include impacts to be mitigated by this sponsor.

<b>Compensatory Mitigation Requirements:</b>			<b>8-digit HUC and Basin: 03050101, Catawba River Basin</b>			
Stream Mitigation (credits)			Wetland Mitigation (credits)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-Riverine	Non-Riparian	Coastal
358						

**Mitigation Site Debited:** \_\_\_\_\_

(List the name of the bank to be debited. For umbrella banks, also list the specific site. For NCDMS, list NCDMS. If the NCDMS acceptance letter identifies a specific site, also list the specific site to be debited).

**Section to be completed by the Mitigation Sponsor**

**Statement of Mitigation Liability Acceptance:** I, the undersigned, verify that I am authorized to approve mitigation transactions for the Mitigation Sponsor shown below, and I certify that the Sponsor agrees to accept full responsibility for providing the mitigation identified in this document (see the table above), associated with the USACE Permittee and Action ID number shown. I also verify that released credits (and/or advance credits for NCDMS), as approved by the USACE, are currently available at the mitigation site identified above. Further, I understand that if the Sponsor fails to provide the required compensatory mitigation, the USACE Wilmington District Engineer may pursue measures against the Sponsor to ensure compliance associated with the mitigation requirements.

**Mitigation Sponsor Name:** \_\_\_\_\_

**Name of Sponsor's Authorized Representative:** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor's Authorized Representative**

\_\_\_\_\_  
**Date of Signature**



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

S. JAY ZIMMERMAN  
*Director*

July 14, 2017

Mr. Philip S. Harris, III, P.E., CPM  
Natural Environment Section Head  
Project Development and Environmental Analysis  
North Carolina Department of Transportation  
1598 Mail Service Center  
Raleigh, North Carolina, 27699-1598

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for Proposed improvements to I-77 in Mecklenburg and Iredell Counties, Federal Aid Project NHF-077-1(209)9; WBS No. 45454.1.1, TIP I-5405, I-4750AA, and I-3311C.  
NCDWR Project No. 20150931 v.4

Dear Mr. Harris:

Attached hereto is a modification of Certification No. WQC004036 issued to The North Carolina Department of Transportation (NCDOT) dated November 13, 2015-version 1, May 16, 2016 version 2, and November 22, 2016 version 3.

This Individual Certification now includes modifications to impacts in the central and south sections, I-5405 and I-3311C sections of the I-77 HOT Lanes project.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads 'S. Jay Zimmerman for:'.

S. Jay Zimmerman, Director  
Division of Water Resources

Attachments

Electronic copy only distribution:

Crystal Amschler, US Army Corps of Engineers, Asheville Field Office  
Larry Thompson, Division 10 Environmental Officer  
Colin Mellor, NC Department of Transportation  
Carla Dagnino, NC Department of Transportation  
Marella Buncick, US Fish and Wildlife Service  
Marla Chambers, NC Wildlife Resources Commission  
File Copy

**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 Resources (NCDWR) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 6 linear feet of jurisdictional streams. The project shall be constructed pursuant to the modification dated received May 19, 2017. The authorized impacts are as described below

**Stream Impacts in the Catawba River Basin**

<b>Site</b>	<b>Permanent Fill in Intermittent Stream (linear ft)</b>	<b>Temporary Fill in Intermittent Stream (linear ft)</b>	<b>Permanent Fill in Perennial Stream (linear ft)</b>	<b>Temporary Fill in Perennial Stream (linear ft)</b>	<b>Total Stream Impact (linear ft)</b>	<b>Stream Impacts Requiring Mitigation (linear ft)</b>
<b>6-C</b> (increase 10 feet from 26 to 36 total)			36			
<b>7-C</b> (decrease 16 feet, from 91 to 75 total)			75			
<b>3C-S</b> (additional 40 feet of temporary impact, from 45 to 85 total)				85		
<b>Total Change</b>			-6 feet	40 feet		

**Total Permanent Stream Impact for Modification: - 6 linear feet**

**Total Temporary Stream Impact for Modification: 40 linear feet**

The application provides adequate assurance that the discharge of fill material into the waters of the **Catawba 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 dated received May 19, 2017. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated November 13, 2015-version 1, May 16, 2016 (February 12, 2016)-version 2, and November 22, 2016-version 3 still apply except where superseded by this certification. Should your project change, you are required to notify the NCDWR 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). Additional buffer impacts may require compensatory mitigation as described in 15A NCAC 2B .0243. 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, Coastal Stormwater, 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. This modification is applicable only to the additional proposed activities. All of the authorized activities and conditions of certification associated with the original Water Quality Certification dated November 13, 2015 and subsequent modifications dated May 16, 2016 version 2, and November 22, 2016 version 3. still apply except where superseded by this certification.

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 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA permit.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

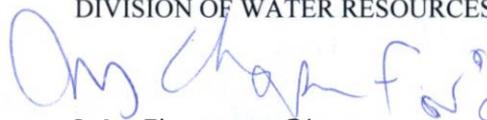
Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

A copy of the petition must also be served on DEQ as follows:

Mr. Bill F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center

This the 14th day of July 2017

DIVISION OF WATER RESOURCES



S. Jay Zimmerman, Director

WQC No. 004036