




STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

November 22, 2004

MEMORANDUM TO: Mr. M. L. Holder, P.E.  
Division 12 Engineer

FROM: Philip S. Harris, III, P.E., Manager  
Office of the Natural Environment  
Project Development and  
Environmental Analysis Branch 

SUBJECT: Cleveland County, Replace Bridge No. 14 on NC 161 over I-85/US 29; State Project No. 8.1801202; Federal Aid Project Brimf-85-1 (93)8; TIP B-3437

Attached is the U. S. Army Corps of Engineers Nationwide Permit Number 14 for the modification of the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

cc: Mr. Art McMillan, P.E.  
Mr. Omar Sultan  
Mr. Jay Bennett, P.E.  
Mr. David Chang, P.E.  
Mr. Randy Garriss, P.E.  
Mr. Greg Perfetti, P.E.  
Mr. Mark Staley  
Mr. John F. Sullivan, III, FHWA  
Ms. Trish Simon, Division 12 DEO

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DIVISION OF HIGHWAYS  
PDEA-OFFICE OF NATURAL ENVIRONMENT

U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT

Action Ids. 200430140 (Modification)

County: Cleveland

**GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION**

Property owner: North Carolina Department of Transportation

Address: Project Development and Environmental Analysis Branch, Attn: Gregory J. Thorpe, 1548 Mail Service Center,  
Raleigh, North Carolina 27699-1548

Telephone No.: (919) 733-7844

Size and Location of project (water body, road name/number, town, etc.):

**Bridge No. 14 over unnamed tributaries of Kings Creek and Crowders Creek on NC 161 at I-85 near Kings Mountain, TIP No. B-3437**

Description of Activity:

**Replace Bridge No. 14 with a new bridge at the same location and reconstruct interchange access ramps resulting in 148 feet of culvert extensions and 100 feet of streambed armoring on Crowders Creek, 143 feet of channel relocation on UT1 Kings Creek and 133 feet of culvert extension on UT2 Kings Creek. Approximately .4 acres of existing pond would also be filled for on-ramp extension. Traffic will be maintained on the existing bridge during construction. SPECIAL CONDITION: All culverts will be installed to allow the passage of low stream flows and the continued movement of fish and other aquatic life as well as to prevent headcutting of the stream bed. Stream mitigation is waived on Crowders Creek due to the degraded nature of the channel at this location.**

Applicable Law:   X   Section 404 (Clean Water Act, 33 U.S.C.1344).

(check all that apply)        Section 10 (River and Harbor Act of 1899).

Authorization:                      Regional General Permit Number.

      14       Nationwide Permit Number.

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

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

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

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

Date Modified October 25, 2004

Corps Regulatory Official Steven Lund SW 1 Telephone No. (828) 271-7980

Expiration Date of Verification November 18, 2005

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

CESAW Form 591  
Revised July 1995

## REGIONAL CONDITIONS

**ALL NATIONWIDE PERMITS.** The following regional conditions apply to any nationwide permit within the State of North Carolina:

1. Before any nationwide permit can be utilized in a designated "Outstanding Resource Water" (ORW) (as defined by the North Carolina Division of Water Quality) or a "Primary Nursery Area"(PNA) (as defined by the North Carolina Division of Marine Fisheries) within the State of North Carolina, the prospective permittee must notify the District Engineer with a pre-construction notification pursuant to the procedures identified in Nationwide Permit General Condition #13.
2. Prior to use of any nationwide permit in a designated "Area of Environmental Concern" (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), a proponent must first obtain the required CAMA permit and furnish a copy of the CAMA permit to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office - P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office - P.O. Box 1000, Washington, NC 27889).
3. Prior to the use of any nationwide permit on a barrier island of North Carolina, proponents must notify the Wilmington District Engineer in accordance with General Condition 13 and furnish a written statement of compliance with all of the conditions of the applicable nationwide permit.
4. Prior to the use of any nationwide permit in a "Mountain or Piedmont Bog" of North Carolina, proponents must notify the Wilmington District Engineer in accordance with General Condition 13 and furnish a written statement of compliance with all of the conditions of the applicable nationwide permit.

Note: The following wetland community types as identified by the N.C. Natural Heritage Program document entitled, "Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

### Mountain Bogs

Swamp Forest-Bog Complex  
Swamp Forest-Bog Complex (Spruce Subtype)  
Southern Appalachian Bog (Northern Subtype)  
Southern Appalachian Bog (Southern Subtype)  
Southern Appalachian Fen

### Piedmont Bogs

Upland depression Swamp Forest

5. Prior to the use of any nationwide permit within twenty-five (25) designated counties of North Carolina that contain trout waters, proponents must notify the Wilmington District Engineer in accordance with General Condition 13 and furnish a written statement of compliance with all of the conditions of the applicable nationwide permit. Notification will include a letter of comments and recommendations from North Carolina Wildlife Resources Commission (NCWRC), the location of work, a delineation of wetlands, 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. 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.

a. The twenty-five (25) designated counties 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		

b. To obtain the required letter from the North Carolina Wildlife Resources Commission, a proponent should contact:

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

6. Measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the United States until the concrete has hardened.

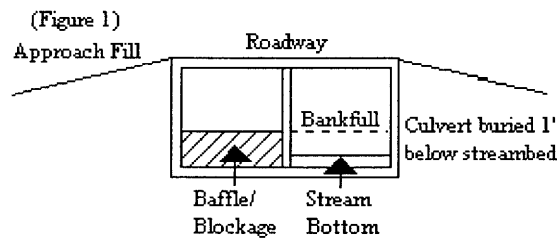
7. Discharges into Waters of the United States designated by the North Carolina Division of Marine Fisheries as anadromous fish spawning area is prohibited during the period between March 1 and May 30.

8. For all Nationwide Permits where rip rap material is utilized to stabilize banks, e.g. NWPs #3, #1 #13, and #14, and to comply with Nationwide Permit General Condition #3, Soil Erosion and Sediment Controls, the permittee is required to utilize filter cloth prior to the placement of the riprap material.

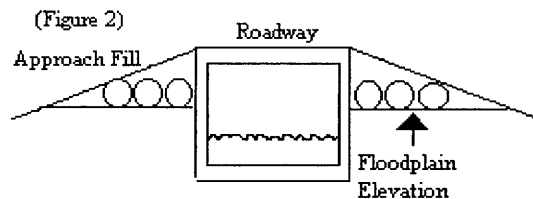
**INDIVIDUAL NATIONWIDE PERMITS.** The following proposed regional conditions apply to specific nationwide permits within the State of North Carolina:

**NWP #14 - Linear Transportation Crossings**

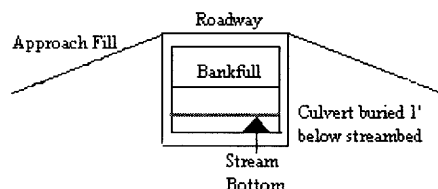
- a. Natural channel design is to be utilized to the maximum extent practicable for stream relocations. Guidelines published by the N.C. Wildlife Resources Commission and the N.C. Division of Water Quality are available to assist in planning and design.
- b. Bankfull flows (or less) will be accommodated through maintaining the existing bankfull channel cross sectional area. Additional culverts at such crossings will be allowed only to receive flows exceeding bankfull.



- c. Where adjacent floodplain is available, flows exceeding bankfull will be accommodated by installing culverts at the floodplain elevation.



- d. Culvert construction will include measures to promote fish and other aquatic organism passage. Culvert inverts will be buried a minimum of one foot below the bed of the stream. Bottomless arch culverts would satisfy this condition.



- e. Private projects are excluded from tidal waters and tidal wetlands.

**NATIONWIDE PERMIT #14: ROAD CROSSING.** Authorizes fills for roads crossing waters of the United States (including wetlands and other special aquatic sites) provided:

- a. The width of the fill is limited to the minimum necessary for the actual crossing;
- b. The fill placed in waters of the United States is limited to a filled area of no more than one-third acre. Furthermore, no more than a total of 200 linear feet of the fill for the roadway can occur in special aquatic sites, including wetlands;
- c. The crossing is culverted, bridged or otherwise designed to prevent the restriction of, and to withstand, expected high flows and tidal flows, and to prevent the restriction of low flows and the movement of aquatic organisms;
- d. The crossing, including all attendant features, both temporary and permanent, is part of a single and complete project for crossing of a water of the United States; and
- e. For fills in special aquatic sites, including wetlands, the permittee notifies the District Engineer (DE) according to the "Notification" general condition. This notification must include a delineation of affected special aquatic sites, including wetlands.

#### **NATIONWIDE PERMIT CONDITIONS**

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
4. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and case-by-case conditions. The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its Section 401 water quality certification.

7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

8. Tribal rights. No activity or its operation may impair tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water quality certification. The permittee must comply with all conditions of General Water Quality Certification No. 3103, issued by the North Carolina Division of Water Quality (NCDWQ) on February 11, 1997.

10. Coastal zone management. The North Carolina Division of Coastal Management (NCDCM), has determined that this nationwide permit(NWP) is conditionally consistent with the North Carolina Coastal Management Program. Notification to and written concurrence from the NCDCM is required prior to work in the twenty (20) coastal counties of North Carolina.

11. Endangered species.

a. No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-Federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity by a NWP does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at <http://www.fws.gov/r9endspp.html> and [http://kingfish.spp.mnfs.gov/tmcintyr/prot\\_res.html#ES](http://kingfish.spp.mnfs.gov/tmcintyr/prot_res.html#ES) and Recovery, respectively.



12. Historic properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must be notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. Notification.

a. Timing. Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

(1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified by the District or Division Engineer that an individual permit is required; or

(3) Unless 30 days have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b. Contents of notification. The notification must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; and other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and

(4) For NWP 14, the PCN must also include a delineation of affected special aquatic sites, including wetlands (see paragraph 13.f.).

c. Form of Notification: The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all the information required in b.(1)-(4) of General Condition 13. A letter may also be used.

d. District Engineer's Decision: In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the effects are minimal, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary.

Any mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee elects to submit a mitigation plan, the District Engineer will expeditiously review the proposed mitigation plan, but will not commence a second 30-day notification procedure. If the net adverse effects of the project (with the mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant stating that the project can proceed under the terms and conditions of the NPW.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either:

(1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;

(2) that the project is authorized under the NWP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or

(3) that the project is authorized under the NWP with specific modifications or conditions.

e. Agency Coordination. The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

The District Engineer will, upon receipt of a notification, provide immediately, e.g., facsimile transmission, overnight mail or other expeditious manner a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA , State Historic Preservation Officer (SHPO), and if appropriate, the National Marine Fisheries Service. The agencies will then have 5 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notifications.

f. Wetlands Delineations. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

g. Mitigation. Factors that the District Engineer will consider when determining the acceptability of appropriate and practicable mitigation include, but are not limited to:

(1) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology and logistics in light of the overall project purposes; and

(2) To the extent appropriate, permittees should consider mitigation banking and other forms of mitigation including contributions to wetland trust funds, in lieu fees to organizations such as The Nature Conservancy, State or county natural resource management agencies, where such fees contribute to the restoration, creation, replacement, enhancement or preservation of wetlands. Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; and replacing the loss of aquatic resource values by creating, restoring and enhancing similar functions and values. In addition, mitigation must address wetland impacts, such as functions and values, and cannot be simply used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWP's (e.g., for NWP 26, 5 acres of wetlands cannot be created to change a 6-acre loss of wetlands to a 1 acre loss; however, 2 created acres can be used to reduce the impacts of a 3-acre loss.).

14. Compliance certification. Every permittee who has received a NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

- a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
- b. A statement that any required mitigation was completed in accordance with the permit conditions; and
- c. The signature of the permittee certifying the completion of the work and mitigation.

15. Multiple use of NWP. In any case where NWP number 12 through 40 is combined with any other NWP number 12 through 40, as part of a single and complete project, the permittee must notify the District Engineer in accordance with paragraphs a., b., and c. of the Notification General Condition number 13. Any NWP number 1 through 11 may be combined with any other NWP without notification to the Corps, unless notification is otherwise required by the terms of the NWPs. As provided at 33 CFR 330.6(c) two or more different NWPs can be combined to authorize a single and complete project. However, the same NWP cannot be used more than once for a single and complete project.

#### **SECTION 404 ONLY CONDITIONS**

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material in waters of the United States, and must be followed in order for authorization by the NWPs to be valid:

1. Water supply intakes. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for the repair of the public water supply intake structure or adjacent bank stabilization.
2. Shellfish production. No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by NWP 4.
3. Suitable material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharges must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
4. Mitigation. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site), unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.
5. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. Obstructions to high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent possible.

8. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

## **REGIONAL CONDITIONS**

1. Prior to the use of any NWP in a designated "Outstanding Resource Water" (ORW), a designated "High Quality Water" (HQW) or a designated "Primary Nursery Area" (PNA), of North Carolina or in contiguous wetlands (as defined by the North Carolina Division of Water Quality) to any of the above waters, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to working in the waters and/or contiguous wetlands and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the waters and/or adjacent wetlands as may be required by the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

2. Prior to use of any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), a proponent must first obtain the required CAMA permit and furnish a copy of the CAMA permit to the Wilmington District.

3. Prior to the use of any NWP on a barrier island of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable

adverse impacts to wetlands or waters as may be required by the conditions of the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

4. Prior to the use of any NWP in a “Mountain or Piedmont Bog” of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to wetlands or waters as may be required by the conditions of the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

5. Prior to use of any NWP for construction of animal waste facilities in waters and/or wetlands of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and, a plan to provide compensatory mitigation for all unavoidable adverse impacts to wetlands or waters as may be required by the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

NOTE: The total area of wetlands impacted, including wetlands drained by upland perimeter ditches or by other means, will be considered as cumulative impacts in making a decision to assert discretionary authority under any NWP.

6. Prior to the use of any NWP in mountain trout waters within twenty-five (25) designated counties of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include a letter of comments and recommendations from North Carolina Wildlife Resources Commission (NCWRC); the location of work; a delineation of wetlands; 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. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

a. The twenty-five (25) designated counties 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		

b. To obtain the required letter of approval from the North Carolina Wildlife Resources Commission (NCWRC), a proponent should contact:

North Carolina Wildlife Resources Commission  
Habitat Conservation Program Manager  
512 North Salisbury Street  
Raleigh, NC 27611  
Telephone (919) 733-7638

7. Finished elevations of a road must not be lower than the elevation of surrounding wetlands to prevent the road from functioning as a ditch and draining adjacent wetlands.

8. The total area of wetlands impacted, including wetlands drained by ditches excavated adjacent to roads or by the road itself, must not exceed the 1/3 acre limitation of this permit.

9. All wetland crossings must be from previously existing high ground to previously existing high ground.

10. Culverts installed in crossings must be of sufficient size to allow normal surface water exchange between the wetlands on either side of the road and to maintain normal hydrology across the wetland.

11. All fill material must be obtained from an upland source.

12. Culverts may not be used on crossings of streams designated by the North Carolina Division of Marine Fisheries and the North Carolina Wildlife Resources Commission as anadromous fish spawning areas. Crossings must be bridged. This does not apply to culverts being replaced with culverts.

13. Uncontained concrete may not be poured in streams.

## **STATE CONSISTENCY CONDITIONS**

1. The roadway width shall be minimized as much as practicable and that no practicable alternative exists.
2. All fill material must be obtained from an upland source.
3. Bridging is required in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries or the North Carolina Wildlife Resources Commission in order to allow the continued use of upstream waters for spawning. Use of culverts in these situations is not authorized.
4. Where culverts are used, they should be buried one foot into the substrate if possible to maintain and facilitate fish passage.
5. If concrete is used, care must be taken to prevent wet concrete from contacting stream water.
6. If the proposed activity is within the North Carolina Coastal Area, the applicant must receive written concurrence from the North Carolina Division of Coastal Management (NCDQM) that the activity is consistent with the North Carolina Coastal Management Program.

## **GENERAL CERTIFICATION CONDITIONS**

1. Proposed fill or substantial modification under this General Certification requires written concurrence from the North Carolina Division of Water Quality (NCDWQ).
2. The width of the fill is limited to the minimum needed to the actual crossing.
3. The roadway width shall be minimized as much as practicable and no practicable alternative exists.
4. Pipes shall be installed under the road in all necessary stream crossings to carry at least the 25-year storm event as outlined in the most recent edition of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" so as not to impede flow.
5. 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" (available from



the North Carolina Division of Land Management in the DEHNR Regional or Central Offices) will be utilized to prevent exceedances of the appropriate turbidity water quality standard (50 NTU's in streams and rivers not designated as trout by NCDWQ, 25 NTU's in all saltwater classes and all lakes and reservoirs, and 10 NTU's in trout waters).

6. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the North Carolina Division of Land Resources has released the project.

7. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the State until the concrete has hardened.

8. If this Certification is used to access building sites, all lots must be buildable without additional fill beyond that allowed under other General Certifications. Deed restrictions must be placed on the remaining wetlands on these lots to restrict future fill. The North Carolina Division of Water Quality (NCDWQ) shall be sent copies of all deed restrictions applied to these lots.

9. This Certification shall be utilized for roads from natural high ground to natural high ground. The Certification for NWP No. 18 may not be used in conjunction with this Certification to create high ground for road access.

10. If an environmental document is required, this Certification is not valid until a FONSI or ROD is issued by the State Clearinghouse.

11. Additional site-specific conditions may be added to this Certification to ensure compliance with all applicable water quality and effluent standards.

12. Concurrence from the North Carolina Division of Water Quality (NCDWQ) that this Certification applies to an individual project shall expire three years from the date of the cover letter from the NCDWQ.

## **Project Commitments**

Cleveland County  
Bridge No. 14  
On NC 161 over I-85/US 29  
State Project No. 8.1801202  
Federal Aid Project No. Brimf-85-1 (93)8  
TIP Project B-3437

In addition to the standard Section 404 Nationwide 14 Permit General Conditions and Special Conditions, as well as Sections 401 Water Quality Certification (WQC) Numbers 3253 General Conditions the following commitments are agreed to by the NCDOT (Current status, changes, or additions to the project commitments as shown in the environmental document for the project are printed in *italics*):

*There are no further environmental conditions for this project at the permitting stage.*