

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY GOVERNOR LYNDO TIPPETT Secretary

November 14, 2008

MEMORANDUM TO:

Mr. C. E. Lassiter, Jr., PE Division Two Engineer

E.J. Jude

FROM:

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

SUBJECT:

Craven County, US 17 New Bern Bypass; From US 17 just south of Jones/Craven County Line to US 70; T.I.P. Number R-2301; WBS Element 34414.1.1; State Project No. 6.179001T

Attached are the U.S. Army Corps of Engineers Section 404 Individual Permit, N.C. Division of Water Quality Section 401 Individual Water Quality Certification and Riparian Buffer Authorization 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. Beth Harmon, EEP
Mr. Rob Hanson, P.E., PDEA Eastern Region Unit Head
Mr. Jay B. Johnson, Division Environmental Officer

US 17 New Bern Bypass From US 17 just south of the Jones/Craven County Line to US 70 Craven County WBS Element 34414.1.1 State Project No. 6.179001T TIP PROJECT R-2301

COMMITMENTS DEVELOPED THROUGH PROJECT DEVELOPMENT AND DESIGN

All commitments developed during the project development and design phase have been incorporated into the design and were standard commitments. Current status, changes, or additions to the project commitments as shown in the Draft Environmental Impact Statement for the project are printed in *italic* font.

Project Development & Environmental Analysis Branch

• The USFWS will be consulted prior to letting to ensure no additional species were added to the protected species list subsequent to approval of the Record of Decision.

The January 31, 2008 US Fish and Wildlife list of federally-protected species for Craven and Jones Counties was reviewed during the preparation of this Construction Consultation for updates since the approval of the Record of Decision (June 19, 2001) and the Right of Way Consultation (June 6, 2006). The Bald eagle was removed from the Endangered Species List on August 8, 2007. Other than delisting of the Bald eagle, no other changes in the list or impacts to species on the list have occurred. This portion of the project is not expected to have any effect on any of the species currently included on the list

• Manatee Construction Precautions will be implemented to ensure the species will not be impacted during construction.

No habitat for the West Indian Manatee exists within this portion of the proposed New Bern Bypass project.

• Wetland impacts to riverine systems associated with the Neuse River and Swift and Bachelor Creeks will be minimized by bridging the adjacent riverine wetland systems.

Wetland impacts along this section of the project have been avoided and minimized to the extent possible through the Section 404/NEPA Interagency Merger Process. In accordance with a March 6, 2007 Bridging Decisions field Meeting and an April 11, 2007 Permit Drawing Review Meeting (Concurrence Point 4C), the Deep Gully crossing located at the Jones/Craven County Line will be bridged to minimize impacts to the associated wetland system.

• The unavoidable impacts that occur due to clearing and pile driving will be mitigated by the removal of NC 43 and the restoration of wetland function.

This special project commitment is relative to Section A of the project only in the sense that it's part of the total project mitigation. No work on NC 43's anticipated as part of R-2301 A.

• In accordance with the letter from the Secretary, North Carolina Department of Transportation (NCDQT), to the Chief of the Regulatory Branch, U. S. Army Corps of Engineers, dated June 5, 1995, the NCDOT will complete construction of the wetland mitigation for the proposed action, and conduct monitoring until reasonable success is demonstrated, prior to beginning construction on any segment of the US 17 New Bern Bypass. This includes the mitigation for all unavoidable impacts to wetlands, except the impacts to riverine wetlands associated with the Neuse River, Swift Creek and Bachelor Creek, which will be mitigated by the removal of NC 43. The riverine wetland mitigation will be performed after the Bypass is complete and open to traffic.

Subsequent to this condition, several on-site mitigation areas have been deemed successful by the U.S. Army Corps of Engineers. Both the Sawmill mitigation site and the Croatan mitigation site have been constructed and are currently being monitored for success. Preliminary results of monitoring indicate that these sites will be successful. Coordination of these sites with the USA CE, USEPA, and other involved regulatory and resource agencies will continue between now and the beginning of construction of R-2301 A.

• Prior to right of way acquisition in the vicinity of the Carman House, NCDOT Will consult with the North Carolina SHPO in order to determine if mitigation measures for the Carman House are necessary.

The Carman House is located in the fork of NC 43 and SR 1401 (Spring Garden Road) in Section B of the project. This consultation covers only Section A of the project.

• Prior to implementing any additional archaeological work at sites 31Cv254, 31Cv255, and 31Cv256, the NCDOT will coordinate with the FHWA and SHPO on a Memorandum of Agreement to define appropriate data recovery measures. Data recovery efforts at the sites will be completed prior to beginning construction activities in the area.

This Construction Consultation only covers Section A of the project. None of the three sites listed in the commitment occur in Section A.

• NCDOT will continue coordination and discussions with the North Carolina Wildlife Resources Commission and other federal and state agencies during the final design of the project regarding issues related to large mammal passage across the project.

The entire project, including Segment A, was coordinated with the NCWRC and other federal and state agencies through the Section 404/NEPA Interagency Merger Process. No large mammal passages have been recommended ill Segment A of the project by the merger team members.

Roadway Design Unit

• During final design, design improvements to upgrade the level of service (LOS) at the intersection of NC 55 and the US 17 Bypass northbound ramps will be considered.

NC 55 is located north of US 70 within Segment B of the project. This consultation includes improvements to Segment A.

• Noise Abatement will be evaluated further and a design noise report will be prepared during final design.

The latest noise report supplement that was completed for the project was in February, 1995 in preparation of the NEPA documents. Traffic impacts and barrier analysis were reevaluated during this Construction Consultation in accordance with current guidelines. Again, mitigation for noise impacts was determined not to be reasonable or feasible.

• Bridge construction technique studies will be performed during design and will be coordinated with regulatory agencies.

The Deep Gully crossing was coordinated with the Merger Process Team.

Division 2

- Coordination with the U. S. Fish and Wildlife Service and North Carolina Wildlife Resources Commission will be undertaken during construction to ensure minimal impacts to fisheries resources.
- Deck drains (weep holes) will not be installed in bridges over Deep Gully, Bachelor Creek, the Neuse River, and Swift Creek.

Only the Deep Gully crossing is located in Segment A of this project. Bachelor Creek, Neuse River, and Swift Creek are located in Segment B and are not included in this Construction Consultation for Segment A.

• No grubbing within the riverine wetland systems adjacent to the Neuse River and its tributaries will be conducted.

This commitment will be honored for any tributaries to the Neuse River that may be present in Segment A of the project.

• Efforts will be made to salvage all pulpwood and saw timber once construction has commenced.

Highway Design Branch/ Division 2 / Right of Way Branch

- Coordination with appropriate state and federal regulatory agencies will be implemented to ensure project consistency with applicable floodplain policies and regulations.
- Any hazardous waste sites or unrecorded underground storage tanks discovered during the final design and construction phases of the project will be assessed and remediated in compliance with the U.S. Environmental Protection Agency, the North Carolina Department of Environment and Natural Resources, and local policies regarding cleanup procedures. This will occur prior to continuation of construction.

• Access to Weyerhaeuser timberlands south of US 70 will be provided via service roads. Disruption of the drainage system flow developed to make the surrounding commercial timber lands productive will be avoided, or minimized if avoidance is not possible.

Access to Weyerhaeuser timberlands is not available under the current parameters of the design. The Right of Way Branch will negotiate the loss of access with Weyerhaeuser.

• In order to protect anadromous fisheries habitat during seasonal migration, there will be a moratorium between March 1 through August 31 on in-water construction such as pile driving in Bachelor Creek, the Neuse River, and Swift Creek.

Each of these water resources is located within section B of the project.

- High Quality Water Best Management Practices will be implemented at streams, creeks, and rivers crossed by the proposed action.
- The New Bern Bypass will be designed and constructed in accordance with Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Buffers (15A NCAC 2B.0233).
- No borrow or waste areas or pits will be permitted in areas under US Army Corps of Engineers jurisdiction.

COMMITMENTS DEVELOPED THROUGH PERMITTING

Project Development & Environmental Analysis Branch

404/401 Permits

• The 404/401 authorizations are only for R-2301 Section A. Construction of Section B will only be allowed once all appropriate and practicable avoidance and minimization measures have been employed and final designs have been completed and plans have been approved by the District Commander.

CAMA Consistency Review

• Construction of the entire project which encompasses both R-2301A and R-2301B is expected to impact a total of 30.60 acres of permanent wetland impacts, 3.05 acres of permanent surface water impacts, and 334 linear feet of permanent stream impacts. However, the R-2301B section of the project is currently unfunded and jurisdictional resource impacts of the project are based on functional roadway construction limits. Therefore, no mitigation for R-2301B is proposed at this time. The Applicant shall submit a mitigation plan to address impacts by the construction of the R-2301B section of the submission of the CAMA Major Permit application. The mitigation plan shall be approved by DCM, in consultation with the WRC, DWQ, and the US

Army Corps of Engineers (USACE) before a CAMA Major Permit is issued to authorize the construction of R-2301B.

EEP MITIGATION

- Compensatory mitigation for the unavoidable impacts to 11.82 acres of riparian wetlands, 6.68 acres of non-riparian wetlands, and 334 linear feet of stream associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated August 29, 2008 from William D. Gilmore, EEP Transition Manager. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide 23.64 acres of restoration equivalent riparian wetlands, 13.36 acres of restoration equivalent non-riparian wetlands, and 668 linear feet of restoration equivalent warm water stream channel in the Neuse River basin (Hydrologic Cataloging Units 03020202 and 03020204) in accordance with Section X of the MOA. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.
- Compensatory mitigation for impacts to 19,661 square feet of protected riparian buffers in Zone 1 and 14,256 square feet of protected riparian buffers in Zone 2 shall be required.

Mitigation for the unavoidable impacts to jurisdictional resources will be provided by the EEP. EEP indicated in a letter dated August 29, 2008 that they will assume responsibility for satisfying the compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.



DEPARTMENT OF THE ARMY WILMINGTON DISTRICT, CORPS OF ENGINEERS

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

IN REPLY REFER TO

November 5, 2008

Regulatory Division

Action ID: SAW-2008-02206

Dr. Gregory J. Thorpe, PhD, Manager Project Development and Environmental Analysis Branch N.C. Department of Transportation Division of Highways 1598 Mail Service Center Raleigh, North Carolina 27699-1598

Dear Dr. Thorpe:

Enclosed is a Department of the Army permit to relocate and widen approximately 6 miles of US Highway 17 New Bern Bypass (TIP R-2301A), starting from the intersection of existing US 17 and SR 1330 (Simmons Loop Road) in Jones County south of New Bern and ending with a new interchange with US 70 east of the interchange at Clarks in Craven County.

Any deviation in the authorized work will likely require modification of this permit. If a change in the authorized work is necessary, you should promptly submit revised plans to the Corps showing the proposed changes. You may not undertake the proposed changes until the Corps notifies you that your permit has been modified.

Carefully read your permit. The general and special conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant conditions require that:

a. You must complete construction before December 31, 2013.

b. You must allow representatives from this office to make periodic visits to your worksite as deemed necessary to assure compliance with permit plans and conditions.

You must notify this office in advance as to when you intend to commence and complete work.

You should address all questions regarding this authorization to William Wescott, Washington Regulatory Field Office, telephone 252-975-1616 ext. 31.

Sincerely,

J. Kguneth

Jefferson M. Ryscavage Colonel, U.S. Army District Commander

Enclosures

Copy Furnished (with enclosures):

Chief, Source Data Unit NOAA/National Ocean Service ATTN: Sharon Tear N/CS261 1315 East-West Hwy., Rm 7316 Silver Spring, Maryland 20910-3282

Copies Furnished (with special conditions and plans):

Mr. Ronald J. Mikulak, Chief Wetlands Regulatory Section 61 Forsyth Street Atlanta, Georgia 30303

Mr. Pete Benjamin U.S. Fish and Wildlife Service Fish and Wildlife Enhancement Post Office Box 33726 Raleigh, North Carolina 27636-3726

Mr. Ron Sechler National Marine Fisheries Service Pivers Island Beaufort, North Carolina 28516 Mr. Doug Huggett
Division of Coastal Management
N.C. Department of Environment and Natural Resources
400 Commerce Avenue
Morehead City, North Carolina 28557

Mr. David Rackley National Marine Fisheries Service 219 Fort Johnson Road Charleston, South Carolina 29412-9110

NOV 0 4 2008 REGULAI UNY DEPARTMENT OF THE ARMY PERMIT WILM.FLD.OFC.

Permittee North Carolina Department of Transportation, Gregory J. Thorpe, Ph.D.

Permit No. SAW 2008-02206

Issuing Office **CESAW-RG-W**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The proposed T.I.P. project R-2301 Section A involves constructing a divided multi-lane, full control of

access freeway, interchanges at locations with major traffic movements, and grade separations at minor crossroads and railroads.

The project is approximately 6 miles long and proposes to construct on new location US Highway 17 west of New Bern. The T.I.P.

R-2301 Section A project would permanently impact 18.50 acres of jurisdictional wetlands and 334 linear feet of stream. The project

would temporarily impact 0.79 acres of jurisdictional wetlands and 0.01 acres of stream.

Project Location: This project involves the construction of a new US Highway 17 New Bern Bypass starting from the intersection of existing US 17 and SR 1330 (Simmons Loop Road) in Jones County south of New Bern and ending with a new interchange with US 70 east of the interchange at Clarks in Craven County.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **December 31, 2013** If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

ENG FORM 1721, Nov 86

EDITION OF SEP 82 IS OBSOLETE.

(33 CFR 325 (Appendix A))

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit,

Special Conditions:

SEE ATTACHED SPECIAL CONDITIONS

Further Information:

- 1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit, Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

03 2608 - 1 North Carolina Department of Transportation

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

11 /7 /08 Jefferson Ryscavage, COLONEL (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

*U.S. GOVERNMENT PRINTING OFFICE: 1986 - 717-425

SPECIAL CONDITIONS (Action ID. SAW 2008-02206; NCDOT/TIP R-2301A)

COMPLIANCE WITH PLANS

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a) This authorization is only for R-2301 Section A. Construction of Section B will only be allowed once all appropriate and practicable avoidance and minimization measures have been employed and final designs have been completed and plans have been approved by the District Commander.

b) All work must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to the permit plans must be approved by the USACE prior to implementation.

ACTIVITIES NOT AUTHORIZED

c) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, nor shall any activities take place that cause the degradation of waters or wetlands. In addition, except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within, into, or out of waters or wetlands or to reduce the reach of waters or wetlands.

This permit does not authorize temporary placement or double handling of excavated or fill material within jurisdictional waters, including wetlands, outside the permitted area. Additionally, no construction materials or equipment will be placed or stored within jurisdictional waters, including wetlands.

CONSTRUCTION PLANS

d) The Permittee will ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Written verification shall be provided to Washington Regulatory Field Office that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Washington Regulatory Field Office prior to any active construction in waters or wetlands.

e) Prior to commencing construction within jurisdictional waters of the United States for any portion of the proposed project, the Permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings will be acceptable.

POLLUTION SPILLS

f) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. No equipment staging or storage of construction material will occur in wetlands. Hydro-seeding equipment will not be discharged or washed out into any surface waters or wetlands. In the event of a spill of petroleum products or any other hazardous waste, the Permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

NOTIFICATION

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g) The Permittee shall advise the Corps in writing at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

CLEAN FILL MATERIAL

h) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

CONTRACTOR COMPLIANCE

i) The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, and any authorized modifications. A copy of this permit, and any authorized modifications, including all conditions, shall be available at the project site during construction and maintenance of this project.

SEDIMENTATION AND EROSION CONTROL MEASURES

j) The Permittee shall use 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" to assure compliance with the appropriate turbidity water quality standard. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standards. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to aquatic resources. These measures

must be inspected and maintained regularly, especially following rainfall events. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

The Permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.

No fill or excavation for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless it is included on the plan drawings and specifically authorized by this permit.

REPORTING OF VIOLATIONS

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k) The Permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager, within 24 hours of the Permittee's discovery of the violation.

COMPLIANCE WITH SPECIAL CONDITIONS

1) Failure to institute and carry out the details of these special conditions, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

PRECONSTRUCTION MEETING

m) The Permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The Permittee shall provide the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, with a copy of the final plans at least two weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction meeting for a time when the Corps of Engineers and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The Permittee shall invite the Corps and NCDWQ Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

BORROW AND WASTE

n) To ensure that all borrow and waste activities occur on high ground and do not result

in the degradation of adjacent wetlands and streams, except as authorized by this permit, the Permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The Permittee shall provide the Corps of Engineers with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the Permittee has that information. The Permittee will coordinate with the Corps of Engineers before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. All jurisdictional wetland boundaries on borrow and waste sites shall be verified by the Corps of Engineers and shown on the approved reclamation plans. The Permittee shall ensure that all such areas comply with Special Condition b) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the Special Condition c). All information will be available to the Corps of Engineers upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

EEP MITIGATION

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o) Compensatory mitigation for the unavoidable impacts to 11.82 acres of riparian wetlands, 6.68 acres of non-riparian wetlands, and 334 linear feet of stream associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated August 29, 2008 from William D. Gilmore, EEP Transition Manager. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide 23.64 acres of restoration equivalent riparian wetlands, 13.36 acres of restoration equivalent non-riparian wetlands, and 668 linear feet of restoration equivalent warm water stream channel in the Neuse River basin (Hydrologic Cataloging Units 03020202 and 03020204) in accordance with Section X of the MOA. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.

DUC -

Michael F. Easley, Governor William G. Ross Jr., Secretary North Carolina Department of Environment and Natural Resources

> Coleen Sullins, Director Division of Water Quality

September 22, 2008

received

Dr. Greg Thorpe, PhD., Branch Manager Project Development and Environmental Analysis Branch North Carolina Department of Transportation 1548 Mail Service Center Raleigh, North Carolina, 27699-1548

SEP 3 0 2008

U.S. ARMY CORPS ENG Washington Regulatory Fid Ofc

Subject: 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and Neuse River Basin Buffer Rules with ADDITIONAL CONDITIONS for the proposed New Bern Bypass (on new location) in Jones and Craven Counties, State Project No. 6179001T, TIP R-2301A and R-2301B. DWQ Project No. 20080984 DWQ Certification No. WQC003757

Dear Dr. Thorpe:

Attached hereto is a copy of Certification No. 003757 issued to The North Carolina Department of Transportation dated September 22, 2008.

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

Since Coleen Sullins

Director

Attachments

cc: William Wescott, US Army Corps of Engineers, Washington Field Office Kathy Matthews, Environmental Protection Agency Chris Militscher, Environmental Protection Agency Travis Wilson, NC Wildlife Resources Commission (electronic) Gary Jordan, US Fish and Wildlife Service (electronic) Steve Sollod, Division of Coastal Management Garcy Ward, DWQ Washington Regional Office File Copy

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Coleen Sullins, Director Division of Water Quality

401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and Neuse River Basin Buffer Rules 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 and (15A NCAC 2B .0233) This certification authorizes the NCDOT to impact 33.46 acres of jurisdictional wetlands, 352 linear feet of jurisdictional streams and 36,569 square feet of protected riparian buffers in Jones and Craven Counties. The project shall be constructed pursuant to the application dated received June 18, 2008. The authorized impacts are as described below:

			R-230			
Site	Permanent Fill (ac)	Temporary Fill (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)
1A	0.071	0	0	0	0.007	0.078
1B	0.128	0	0	0.	0.514	0.642
1C	0.009	0	0	0	0.013	0.022
2	0.037	0	0	0	0.008	0.045
3.	0.221	0	0	0	0.031	0.252
4	0.404	0	0	0	0.053	0.457
5	1.062	0	0	0	0.118	1.180
6	0.422	0	0	0	0.057	0.479
7	0.043	0	· 0	0	0.003	0.046
8	0.092	0	0	÷ 0	0.049	0.141
9	0.470	0	0	0	0.069	0.539
10	1.165	0	0.058	0	0.119	1.342
10A	0	0	0	0	0.001	0.001
11	9.172	0	0	0	1.102	10.274
12	0.715	0	0	0	0.097	0.812
16	0.116	0	0	Ò	0.033	0.149
18	1.939	0	. 0	0	0.302	2.241
19	0.087	0	0	0	0	0.087
20	1.043	0	0	0	0.141	1.184
21	0.614	0	0.562	0	0.135	1.311
22	0.025	0	0	0	0.015	0.040
23	0	0	0.039	0	0	0.039
TOTAL:	17.84	0.00	0.66	0.00	2.87	21.36
			R-2301			
N/A*	12.10	0	0	0	0	12.10
TOTAL:	0.00	0.00	0.00	0.00	0.00	12.10
<u> </u>		and the second	DTAL FOR PI			
TOTAL:	29.94	0.00	0.66	0.00	2.87	33.46

Wetland Impacts in the Neuse River Basin

*N/A - Site IDs for R-2301B have not been established yet

Transportation Permitting Unit

1650 Mail Service Center, Raleigh, North Carolina 27699-1650

2321 Crabtree Boulevard, Suite 250, Raleigh, North Carolina 27604

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Total Wetland Impact for Project: 33.46 acres Stream Impacts in the Neuse River Basin

			R-2301A			
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)
1A	0	0	334	18	352	334
1B	0	0	0	0	0	0
TOTAL:	0	0	334	18	352	334
			R-2301B			
N/A*	0	0	0	0	0.	0
TOTAL:	0	0	0	0	0.	0
·		TOTA	L FOR PROJ	ECT		
TOTAL:	0	0	334	18	352	334

*N/A – Site IDs for R-2301B have not been established yet.

Total Stream Impact for Project: 352 linear feet

Neuse River Basin Riparian Buffer Impacts

				R-2301A					· · · · ·
Site	Zone 1 Impact (sq ft)	<i>minus</i> Wetlands in Zone 1 (sq ft)	Zone 1 Buffers (sq ft)	Zone 1 Buffer Mitigation Required (3:1 ratio)	In	one 2 npact sq ft)	<i>minus</i> Wetlands in Zone 2 (sq ft)	Zone 2 Buffers (sq ft)	Zone 2 Buffer Mitigation Required (1.5:1 ratio)
1	21,400	1,739	19,661	58,983	1.	5,018	762	14,256	21,384
2	0	0	0	0		151	0	151	0
TOTAL:	21,400	1,739	19,661	58,983	15	5,169	762	14,256	21,384
				R-2301B					
N/A*	0	0	0	0		0	0	0	0
TOTAL:	0	0	0	0		0	0	0	0
]	TOTAL FOR PRO	DJECT	Γ.			
TOTAL:	21,400	1,739	19,661	58,983	15	,169	762	14,256	21,384

*N/A - Site IDs for R-2301B have not been established yet.

Total Buffer Impact for Project: 36,569 square feet.

The application provides adequate assurance that the discharge of fill material into the waters of the Neuse 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 application dated received June 18, 2008. 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, 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.

Conditions of Certification:

Project Specific Conditions

- 1. All stormwater runoff shall be directed as sheetflow through stream buffers at non-erosive velocities, unless otherwise approved by this certification.
- 2. All riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the preconstruction contours and re-vegetated. Maintained buffers shall be permanently re-vegetated with non-woody species by the end of the growing season following completion of construction. For the purpose of this condition, maintained buffer areas are defined as areas within the transportation corridor that will be subject to regular DOT maintenance activities including mowing. The area with non-maintained buffers shall be permanently re-vegetated, with native woody species before the next growing season following completion of construction.
- 3. Pursuant to NCAC15A 2B .0233(6) for Neuse, sediment and erosion control devices shall not be placed in Zone 1 of any Neuse Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.
- 4. No changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of grassed swales, or the horizontal or vertical placement of open ditches is permitted without written approval from the NC Division of Water Quality. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NC Division of Water Quality.
- 5. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices*.
- 6. The permittee will need to adhere to all appropriate in-water work moratoriums (including the use of pile driving or vibration techniques) prescribed by the NC Wildlife Resources Commission, the US Fish and Wildlife Service, and National Marine Fisheries Service. No in-water work is permitted between March 1 and August 31 of any year, without prior approval from the NC Division of Water Quality and the NC Wildlife Resources Commission. In addition, the permittee shall conform to the NCDOT policy entitled "Stream Crossing Guidelines for Anadromous Fish Passage (May 12, 1997) at all times. This moratorium applies to Bachelor Creek, Swift Creek, and the Neuse River.
- 7. Compensatory mitigation for impacts to 19,661 square feet of protected riparian buffers in Zone 1 and 14,256 square feet of protected riparian buffers in Zone 2 shall be required. We understand that you have





Coleen Sullins, Director Division of Water Quality

chosen to perform compensatory mitigation for impacts to protected buffers through use of the North Carolina Ecosystem Enhancement Program (EEP). Mitigation for unavoidable impacts to Neuse Riparian Buffers shall be provided in the Neuse River Basin and done in accordance with 15A NCAC 2B .0233. EEP has indicated in a letter dated August 29, 2008 that they will assume responsibility for satisfying the compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.

- 8. Compensatory mitigation for impacts to 33.46 acres of wetlands is required. We understand that you have chosen to perform compensatory mitigation for impacts to wetlands through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated August 29, 2008 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.
- 9. Compensatory mitigation for 334 linear feet of impact to streams is required. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated August 29, 2008 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.

General Conditions

- 10. Placement of culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by DWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact the NC DWQ for guidance on how to proceed and to determine whether or not a modification to this certification will be required.
- 11. If multiple pipes or barrels are required, they shall be designed to mimic natural stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream channel should be avoided. Stream channel widening at the inlet or outlet end of structures typically decreases water velocity causing sediment deposition that requires increased maintenance and disrupts aquatic life passage.
- 12. Riprap shall not be placed in the active thalweg channel or placed in the streambed in a manner that precludes aquatic life passage. Bioengineering boulders or structures should be properly designed, sized and installed.
- 13. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.

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- 14. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
- 15. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
- 16. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
- 17. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
- 18. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
- 19. Native riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
- 20. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
- 21. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
- 22. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
- 23. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
- 24. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If DWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWQ may reevaluate and modify this certification.
- 25. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.
- 26. A copy of this Water Quality Certification shall be maintained on site at the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.
- 27. The outside buffer, wetland or water boundary located within the construction corridor approved by this certification shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.

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- 28. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
- 29. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this certification without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.
- 30. The Permittee shall ensure that the final design drawings adhere to the certification and to the drawings submitted for approval.
- 31. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:
 - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the North Carolina Surface Mining Manual.
 - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
- 32. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.
- 33. When final design plans are completed for R-2301 Section B, a modification to the 401 Water Quality Certification and the Neuse River Riparian Buffer Certification shall be submitted with five copies and fees to the NC Division of Water Quality. Final designs shall reflect all appropriate avoidance, minimization, and mitigation for impacts to wetlands, streams, and other surface waters, and buffers. No construction activities that impact any wetlands, streams, surface waters, or buffers located in R-2301 Section B shall begin until after the permittee applies for, and receives a written modification of the 401 Water Quality Certification and the Neuse River Riparian Buffer Authorization from the NC Division of Water Quality.
- 34. Upon completion of the project (including any impacts at associated borrow or waste site), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed.

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.





Coleen Sullins, Director Division of Water Quality

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 22nd day of September 2008

DIVISION OF WATER QUALITY Coleen Sullins Director

WQC No. 003757

Transportation Permitting Unit 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 2321 Crabtree Boulevard, Suite 250, Raleigh, North Carolina 27604 Phone: 919-733-1786 / FAX 919-733-6893 / Internet: <u>http://h2o.enr.state.nc.us/ncwetlands</u>



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DIVISION OF HIGHWAYS

North Carolina Department of Environment and Natural FOREAUTREEOF NATURAL ENVIRONMENT Division of Coastal Management

Michael F. Easley, Governor

James H. Gregson, Director

William G. Ross Jr., Secretary

October 2, 2008

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

> SUBJECT: CD08-051 - Consistency Concurrence for Proposed US 17 New Bern Bypass from SR 1330 near the Jones-Craven County Line to SR 1438 near Vanceboro, TIP No. R-2301, Craven County, NC (DCM #20080086)

Dear Dr. Thorpe:

The Division of Coastal Management (DCM) received the consistency certification by the North Carolina Department of Transportation (NCDOT) on June 24, 2008, to construct a four-lane controlled access highway around the western limits of the city of New Bern in Craven County (New Bern Bypass).

The consistency certification provides documentation to DCM that the applicant has determined, through a review of the coastal management program, that the project is consistent with its enforceable policies. North Carolina's coastal management program consists of, but is not limited to, the Coastal Area Management Act, the State's Dredge and Fill Law, and the land use plan of the County and/or local municipality in which the proposed project is located. It is the objective of DCM to manage the State's coastal resources to ensure that proposed activities are compatible with safeguarding and perpetuating the biological, social, economic and aesthetic values of the State's coastal resources.

To solicit public comments, DCM published a public notice in the "The Sun-Journal" on June 1, 2008 and circulated a description of the proposed project to State agencies that would have a regulatory interest in the proposed development. The NC Wildlife Resources Commission (WRC) did not object to the location or design of the project, however, some concerns were expressed in regard to fulfillment of existing project commitments associated with wetland mitigation including the proposed wetland

400 Commerce Avenue, Morehead City, North Carolina 28557-3421 Phone: 252-808-2808 \ FAX: 252-247-3330 \ Internet: www.nccoastalmanagement.net

Consistency Concurrence New Bern Bypass, TIP No. R-2301

mitigation ratio of 1:1. These mitigation concerns, which were shared by DCM and other regulatory and resource agencies, were resolved during the consistency review process.

DCM has reviewed the initial consistency submission and subsequent supplementary supporting documentation pursuant to the enforceable policies of North Carolina's coastal management program, including the management objectives of Section 15A NCAC 07M of North Carolina's Administrative Code. DCM concurs, as conditioned below, that the proposed project is consistent with the enforceable policies of North Carolina's coastal management program. In order to be found consistent with the North Carolina's coastal management program, the Applicant shall comply with the following conditions of concurrence.

- The Applicant shall comply with the Section 401 Water Quality Certification No. WQC003757, issued to the NCDOT by the NC Division of Water Quality (DWQ) on September 22, 2008.
- The Applicant shall comply with Stormwater Permit No. SW7080610, which was issued by DWQ on August 13, 2008.
- Construction of the entire project, which encompasses both R-2301A and R-2301B is expected to impact a total of 30.60 acres of permanent wetland impacts, 3.05 acres of permanent surface water impacts, and 334 linear feet of permanent stream impacts. However, the R-2301B section of the project is currently unfunded and jurisdictional resource impacts of this section of the project are based on functional roadway construction limits. Therefore, no mitigation for R-2301B is proposed at this time. The Applicant shall submit a mitigation plan to address impacts by the construction of the R-2301B section when all avoidance and minimization measures have been taken and final design is complete, prior to the submission of the CAMA Major Permit application. The mitigation plan shall be approved by DCM, in consultation with the WRC, DWQ, and the US Army Corps of Engineers (USACE) before a CAMA Major Permit is issued to authorize the construction of R-2301B.
- The Applicant shall adhere to their compensatory mitigation commitment as outlined in the attached mitigation acceptance letter from the NC Ecosystem Enhancement Program (EEP) to the USACE, dated August 29, 2008, for unavoidable impacts to 11.82 acres of riparian wetlands, 6.68 acres of non-riparian wetlands, and 334 linear feet of stream impacts associated with the construction of R-2301A.
- Upon completion of the final design plans for R-2301 Section B, the Applicant shall submit a CAMA Major Permit Application to DCM. No construction may begin on R-2301B until a CAMA permit is issued in accordance with the rules of the NC Coastal Resources Commission.

Consistency Concurrence New Bern Bypass, TIP No. R-2301

Should the project be modified, a revised consistency certification could be necessary. This might take the form of either a supplemental consistency certification pursuant to 15 CFR 930.66, or a new consistency certification pursuant to 15 CFR 930.57. Likewise, if further project assessments reveal environmental impacts not previously considered by the proposed development, a supplemental consistency certification might be required.

If you have any questions, please contact Steve Sollod at (919) 733-2293 x230 or via email at steve.sollod@ncmail.net. Thank you for your consideration of the North Carolina coastal management program.

Sincerely,

Dougle V Haggett -

Doug Huggett Manager, Major Permits and Consistency Unit

Attachment:

cc: Beth Harmon, EEP Stephen Lane, DCM Chris Rivenbark, NCDOT Stephen Rynas, DCM Steve Sollod, DCM Tyler Stanton, NCDOT David Wainwright, DWQ William Wescott, USACE



	Property	Owners
Parcel Number	Names	Addresses
1	Sustainable Forests	PO Box 309 Roanoke Rapids, NC 5870
2	Palmer Heirs, John Henry Peel, Nelson M.	1487 Wise Five Forks Road Macon, C 27551
	•	
		NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS
		XXX COUNTY WBS - XXXX (B-XXXX)
¢		SHEET 2. of 47 4/11/2008

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TC	2	Natural		Design	611																-								0.0	ANSPORTATIC ANSPORTATIC AHWAYS JNTY (R-2301A)
		Existing Channel	Impacts	Permanent	(11)	333.99																							334.0	NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS CRAVEN COUNTY WBS - 34414.1.1 (R-2301A)
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	2	Permanent	SW	impacts	(4445)	0.047																							0.05	
		Clearing	Ē	Wetlands	(40103)	0.007	410.0	0.013	0.008	0.031	0.053	0.118	0.057	0.003	0.049	0.069	0.119	1.102	0.097	0.033	0.302		0.141	0.135	0.015		0.001		2.33	
TI AND IMPACTS	2	Excavation Mechanized	Clearing	in Wetlands	(444 429)																								0.00	
WETI AND IMPACTS		Excavation	. <u>e</u>	Wetlands	(acica)			-									0.058							0.562		0.039			0.66	
ME		Temp.	Fill In	Wetlands	(cone)					-																				measures
		Permanent	Fill In	Wetlands	(0.074	0.100	0.120	0.09	0.037	0.221	0.404	1.062	0.422	0.043	0.092	0.470	1.165	9.172	0.715	0.116	1.939	0.087	1.043	0.614	0.025				17.83	arosion contra
			Structure	Size / Type	1660mm /64") DCD		afina	BL																	and a second					0.79 acre of temporary fill in wetland in the hand clearing areas for erosion control measures
			Station	(From/To)	1 13+66 to 11+40	L 13700 (0 14740		Y1 20+98 to 21+30	L 22+64 to 22+84	L 24+52 to 24+98	L 32+36 to 33+12	L 34+27 to 35+08	L 36+81 to 37+60	L 37+84 to 38+07	L 39+31 to 40+13	L 39+30 to 41+29	L 45+66 to 47+32	L 61+78 to 69+22	L 69+69 to 70+52	L 71+13 to 71+60	L 72+64 to 75+50	L 80+66 to 80+89	L 81+45 to 82+55	RPB 5+58 to 7+28	RPA 6+01 to 6+21	RPA 6+59 to 6+69	L 55+70			temporary fill in wetland in
			Site	No	<	<u></u>	2 4	2	.2	m	4	5	9	7	ω	6	10	11	12	16	18	19	20	21	22	23	10A		TOTALS:	0.79 acre of

METLAND IMPACTS SUFFACE WATER IMPACTS Ruture Familie Familie<
Station (From/To) L 13+66 to 14+40 L 17+82 to 18+60 Y1 20+98 to 21+30 L 22+64 to 22+84 L 22+52 to 24+98 L 22+54 to 22+84 L 22+55 to 33+12 L 33+31 to 40+13 L 33+31 to 71+60 L 171+13 to 71+60 L 21+30 to 64+51 L 21+13 to 71+60 L 25+70 L 55+70 L 55+70

TS		Natural		t Design (m)																									NC DEPARTMENT OF TRANSPORTATION	GHWAYS	UNTY VI D 2301 AV	h17007-11	6/13/2008
SURFACE WATER IMPACTS		Channel	Impacts	Permanent (m)	101.80																							101.8	RENT OF TH	DIVISION OF HIGHWAYS	CRAVEN COUNTY	T.T.LTLLD -	(
RFACE W/		Temp.	SW	impacts (ha)	0.00										-													0.001	NC DEPAI	D	SOM		SHEET
		Permanent	SW	impacts (ha)	0.02																							0.019					
	Pacil I	Hand Clearing	. <u>c</u>	Wetlands (ha)	0.003	0.208	0.005	0.003	0.013	0.022	0.048	0.023	0.001	0.020	0.028	0.048	0.446	0.039	0.013	0.122	0.000	0.057	0.055	0.006		0.000		1.16					
		Excavation Mechanized	Clearing	in Wetlands (ha)																							-						
		Excavation	. <u>c</u>	Wetlands (ha)												0.023							0.218		0.015			0.256					
MET		Temp.	Fill In	Wetlands (ha)																									measures				
		Permanent	Fill In	Wetlands (ha)	0.029	0.052	0.004	0.015	0.089	0.164	0.430	0.171	0.017	0.037	0.190	0.471	3.712	0.289	0.047	0.785	0.035	0.422	0.248	0.010				7 217	erosion control				
			Structure	Size / Type	1650mm RCP	Bridge																r Arrist St. Harman							e hand clearing areas for				
			Station	(From/To)	L 13+66 to 14+40	L 17+82 to 18+60	Y1 20+98 to 21+30	L 22+64 to 22+84	L 24+52 to 24+98	L 32+36 to 33+12	L 34+27 to 35+08	L 36+81 to 37+60	L 37+84 to 38+07	L 39+31 to 40+13	L 39+30 to 41+29	L 45+66 to 47+32	L 61+78 to 69+22	L 69+69 to 70+52	L 71+13 to 71+60	L 72+64 to 75+50	L 80+66 to 80+89	L 81+45 to 82+55	RPB 5+58 to 7+28	RPA 6+01 to 6+21	RPA 6+59 to 6+69	L 55+70			0.32 HA of temporary fill in wetland in the hand clearing areas for erosion control measures				
			Site	.oN	14	18	5	2	e	4	5	9	7	ω	თ	2	=	12	16	18	19	20	21	22	23	10A		TOTALS:	32 HA of ti				MD Ravisad 2/03/05




















PROJECT REFERENCE NO. SHEET NO. Prepared by METRIC R-230/A R/W SHEET NO. UBS Corporation - North Corolina 1400 Perimeter Park Drive Montaville, North Carolina 27560 EPHCRE (010) 461-1411 Operation (04) 2006, US Coresolvition, Inc. ROADWAY DESIGN HYDRAULICS 10 PRELIMINARY PLANS CONST.REV. Permit Drawing R /W REV. Sheet 15 of 47 ¥ MATCH ¥ WLB-LINE FS \supset \sim õ 3+00.000 \mathcal{O} \square m \mathcal{O} Ξ F R PROP.ROW \square 0



PROJECT REFERENCE NO. SHEET NO. Prepared by METRIC R-230/A R/W SHEET NO. URS Corporation - North Carolin ROADWAY DESIGN HYDRAULICS 1600 Parimeter Furk Drive Marrieville, North Careline 27560 EPICHE (1919) 461-1100 FAX (919) 461-1415 CEPTRIGHT 0 2005, LAS DORPORATION INC. 5 Q 10 PRELIMINARY PLANS \mathbf{x} CONST.REV. Permit Drawing Sheet 16 of 47 R /W REV. ¥ ¥ MATCH ¥ WLB-LINE ST لال ال \triangleright 82 3+00.000 \mathcal{S} m Π SHE F R PROP.ROW \square -1 0











































Prepared by		PROJECT REFERENCE NO.	
URS	METRICE	R-230/A	24
URS Corporation - North Carolina		R /W SHEE ROADWAY DESIGN	T NO. 24 HYDRAULICS
1600 Perimeter Park Drive Morrisville, North Carolina 27560	<u> </u>	ENGINEER	ENGINEER
Morrisville, North Carolina 27560 ELEPHONE (919) 461-1100 FAX (919) 461-1415 COPYRIGHT () 2008, URS CORPORATION, INC.	5 Q 10		
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		PRELIMINAR DO NOT USE FOR CO	I FLANS
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	CONST.REV.	Permit Draw	ing
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N OR F WEYERHAEUSER COMP DB 603 PG 68 PIN# 8–209–021			/
WEYERHAEUSER COMP	ANT		/
PIN# 8-209-021			
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PROJECT REFERENCE NO. Prepored by SHEET NO. METRIC R-2301A 24 R /W SHEET NO. 24 URS Corporation — North Carolina 1600 Parimeter Park Drive Morrisville, North Carolina 27560 TELEMORE (1991 44)-1100 PAR (1993) 441-1415 COMMILTER (2000), URS COMPONATION (INC. ROADWAY DESIGN ENGINEER HYDRAULICS PRELIMINARY PLANS CONST.REV. Permit Drawing Sheet 38 of 47 R /W REV. 22 Ш -- PROP.ROW SHEL .0 G ß Ш LU 2 Ś +00,000 2 \leftarrow 025 2.2 . C 5.8 1β 520 52 \implies N \Longrightarrow \sim Ÿ 3.0 F ST - PROP.ROW PROP.1200 mm WW I-S-BW Ш LINI MATCH (4C)N OR F WEYERHAEUSER COMPANY DB 603 PG 68 PIN# 8–209–021



Permit Drawing Sheet 39 of 47



Permit Drawing Sheet 40 of 47











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	BUFFER	REPLACEMENT	ZONE 1 ZONE 2 (ft ²) (ft ²)	-				-									N.C. DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS	-	301A)	
	1 	RE													 	Ω	OF TRANS		001T (R-2	2008
		щ	TOTAL (ft ²)	36418											, uc	30418	C. DEPT DIVISIO		CRAVEN COUNT PROJECT: 6.179001T (R-2301A)	6/13/2008
		MITIGABLE	ZONE 2 (ft ²)	15018											17040	81061	Ż		PROJE	
			ZONE 1 (ft ²)	21400												21400				
2		Щ	TOTAL (ft ²)		104	47									i i	161				
MMAF	IMPACT	ALLOWABLE	ZONE 2 (ft ²)		104	47									4.7.4	161				
rs su	M	AL	ZONE 1 (ft ²)																	
IMPAC			PARALLEL IMPACT																	
FFER	BUFFER IMPACTS SUMMARY	ТҮРЕ	BRIDGE		×				-								acts acts			
BUI			ROAD CROSSING	×	-	×											as wetland imp as wetland imp	•		
			STATION (FROM/TO)		-L- 17+72	-L- 18+70											1739 SF of buffer impacts in Zone 1 are accounted for as wetland impacts 762 SF of buffer impacts in Zone 2 are accounted for as wetland impacts			
			STRUCTURE SIZE / TYPE	Pipe Culvert	Bridge	Bridge											SF of buffer impacts i SF of buffer impacts i			
			SITE NO.	1*	2	2		 							TOTAL.	UIAL:	1739 762])		

	BUFFFR	REPLACEMENT	ZONE 2 (m ²)						_								RTATION AYS 2301A)	
	Ĩ	REPL/	ZONE 1 (m ²)														FRANSPOI DF HIGHW, N COUNT) 79001T (R	6/12/2008
			TOTAL (m ²)	3088												3088	N.C. DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS CRAVEN COUNTY PROJECT: 6.1790011 (R-2301A)	
		MITIGABLE	ZONE 2 (m ²)	1395			-		-							1395	O. A	
		V	ZONE 1 (m ²)	1988												1988	L	
ARY		ΓE	TOTAL (m ²)		10											14		
NMM	IMPACT	ALLOWABLE	ZONE 2 (m ²)		10	4							-			14		
CTS S	2	AL	ZONE 1 (m ²)															
BUFFER IMPACTS SUMMARY			PARALLEL IMPACT															
UFFEF		ТҮРЕ	BRIDGE		×												nd impacts nd impacts	
ā			ROAD CROSSING			×											ied for as wetla	
			STATION (FROM/TO)	-L- 13+60 to 14+39	-L- 17+72	-L- 18+70											162 SM of buffer impacts in Zone 1 are accounted for as wetland impacts 71 SM of buffer impacts in Zone 2 are accounted for as wetland impacts	
			STRUCTURE SIZE / TYPE	Pipe Culvert	Bridge	Bridge											SM of buffer impact: SM of buffer impact:	
			SITE NO.	1*	2	2										TOTAL:	162	

	Property	Owners
Parcel Number	Names	Addresses
2	Aaron L. & Dorothy C. Mallard	
3	Macon F. & Joyce F Duncan	
		NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS
		Buffer Permit
		Jones Craven COUNTY WBS - 34414.1.1 (R2301A)
		SHEET 3 of 10 4/10/2008

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	EGEND
- — WLB — - EXISTING QUALITY WETLAND BOUNDARY — HO WLB — HIGH QUALITY WETLAND BOUNDARY	5 ADJACENT PROPERTY OWNER OR PARCEL NUMBER
MO WLB MEDIUM QUALITY Wetland Boundary	PROPOSED BRIDGE
LOW QUALITY WETLAND BOUNDARY	PROPOSED BOX CULVERT
WLB DENOTES FILL IN WETLAND	PROPOSED PIPE CULVERT PROPOSED DRAINAGE STRUCTURE
DENOTES FILL IN SURFACE WATER	(DASHED LINES DENOTE EXISTNG STRUCTURES)
DENOTES FILL IN SURFACE WATER (POND)	RIP RAP OUTLET PROTECTION
DENOTES TEMPORARY FILL IN WETLAND DENOTES EXCAVATION IN WETLAND	RIP RAP LINING
DENOTES TEMPORARY FILL IN SURFACE WATER	NORDEDIGIO RIP RAP ENERGY Distribution Dissipator Basin
* * * * * * * * * CLEARING	PREFORMED SCOUR HOLE
→ FLOW DIRECTION TB TOP OF BANK	FALSE SUMP
EDGE OF WATER	SINGLE TREE
F PROP.LIMIT OF FILL	من المعني WOODS LINE
EX.RIGHT OF WAY	
+ PROPERTY CORNER	N. C. DEPT. OF TRANSPORTATION
O EXISTING IRON PIN	DIVISION OF HIGHWAYS
	JONES AND CRAVEN COUNTIES
PDE PERMANENT DRAINAGE EASEMENT	WBS: 34414 (R-2301A)
EXIST.ENDANGERED PLANT BOUNDARY	SHEET 2 OF 17 May 30, 2008

PROPERTY	OWNER

NAME AND ADDRESS

OWNER'S NAME & ADDRESS

PARCEL	NO.

Weyerhaeuser Company

N. C. DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS

JONES AND CRAVEN COUNTIES

WBS: 34414 (R-2301A)

SHEET **3** OF 17 5/3/2008

IPACTS	ing Natural		anent Design	_																						0.000	-	NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS	CRAVEN COUNTY · 34414.1.1 (R-2301A)	
SURFACE WATER IMPACTS	Temp Channel		impacts Permanent																							0.000	-	NC DEPARTMENT (DIVISION C	CRAVEN C WBS - 34414.1.1	ļ
	Permanent	SW	impacts (acres)	0000	0000																					0000				
	Hand	in	Wetlands (acres)	0000	0000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000									0.000	0.000	0.000	000				
TLAND IMPACTS	Excavation Mechanized	Clearing	in Wetlands	(22.22)				-					0.000		0.000	0.000	0.000	0.000	0.000	0.000	0.000									
WETLAND IMPACTS	Excavation	'n	Wetlands (acres)	0000	000.0												0.000							0.000	0000	0.000	200			
WET	Temp	Fill In	Wetlands (acres)		2222																					0000				
	Permanent	Fill In	Wetlands (acres)	0000		0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000		0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000			, ք. գ. ք.		
		Structure	Size / Type																									Temp. Fill in Wetlands: 4 sq. ft. Excavation in Wetlands: 4 sq. ft.		
		Station	(From/To)	L 82+30 to 82+40	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0 0			Ш		
		Site	Ö	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	00		1.443			

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