

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

BEVERLY PERDUE GOVERNOR

EUGENE CONTI SECRETARY

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January 6, 2011

MEMORANDUM TO:	Mr. Greg Burns, PE Division Six Engineer
FROM:	Philip S. Harris, III, P.E., Unit Head Natural Environment Unit Project Development and Environmental Analysis Branch
SUBJECT:	Cumberland, Robeson and Hoke Counties, Proposed improvements to Fayeteville Outer Loop; T.I.P. Numbers X-0002C; Federal Aid Project No NHF-DPR-0100(001); WBS No. 34817.1.1

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

A copy of this permit package will be posted on the NCDOT website at: http://www.ncdot.gov/doh/preconstruct/pe/neu/permit.html

PSH/gyb

Attachment

Cc:	W/attachment
	Mr. Randy Garris, P.E. State Contract Officer
	Mr. James J. Rerko, Division Environmental Officer
Cc:	W/o attachment (see website for attachments)
	Mr. Majed Alghandour, P. E., Programming and TIP
	Mr. Jay Bennett, P.E., Roadway Design
	Dr. David Chang, P.E., Hydraulics
	Mr. Art McMillan, P.E., Highway Design
	Mr. Tom Koch, P.E., Structure Design
	Mr. Dewayne Sykes, P.E., Utilities Unit
	Mr. Mark Staley, Roadside Environmental
	Mr. John F. Sullivan, FHWA
	Mr. Ron Hancock, P.E., State Roadway Construction Engineer
	Mr. Mike Robinson, P.E., State Bridge Construction Engineer
	Ms. Beth Harmon, EEP
	Mr. Rob Hanson, P.E., PDEA Eastern Region Unit Head

Telephone: 919-733-3141 FAX: 919-715-1501



DEPARTMENT OF THE ARMY WILMINGTON DISTRICT, CORPS OF ENGINEERS 69 DARLINGTON AVENUE WILMINGTON, NORTH CAROLINA 28403-1343

December 21, 2010



Regulatory Division

Subject: Action ID No. 2008-01413, TIP No. U-2519 and X-0002, Fayetteville Outer Loop, Cumberland, Robeson and Hoke Counties, North Carolina.

Dr. Gregory J. Thorpe, Ph.D. Environmental Management Director Project Development and Environmental Analysis 1598 Mail Service Center Raleigh, North Carolina 27699-1598

Dear Dr. Thorpe:

I am responding to your requests dated June 1, 2010 and October 19, 2010 for modifications to the existing Department of the Army (DA) permit issued for the above referenced project on November 4, 2008.

The referenced Section 404 permit authorizes impacts to 48.43 acres of jurisdictional wetlands, 12,346 linear feet of important stream channel and 3.67 acres of open waters. The permit modification is proposed to include additional impacts that were not authorized by the November 4, 2008 Department of the Army permit. The project impacts proposed in the modification request include an additional 0.43 acres of wetland impacts, 410 linear feet of important stream channel impacts and 2.55 acres of open water pond impacts.

I have determined that the proposed project modifications described above are minor and are not contrary to the public interest and therefore, the DA permit is hereby modified. It is understood that all conditions of the original permit remain applicable and that the expiration date is unchanged

The permit modifications are as follows:

1. In order to compensate for impacts to 0.43 acres of riparian, non-riverine wetlands and 410 linear feet of warm-water stream, the permittee shall debit the Privateer Farms Stream and Wetland Mitigation Bank in the amount of 1.29 acres of restoration equivalent riparian, non-riverine wetlands and 615 linear feet of warm-water stream.

In accordance with the NC DOT Umbrella Mitigation Banking Instrument dated September 4, 2009, the permittee shall, within 30-days of the date of this permit modification, provide two copies of the current debit ledger of the Privateer Farms Stream and Wetland Mitigation Bank to the :

U.S. Army Corps of EngineersWilmington Regulatory Field Office69 Darlington Avenue, Wilmington North Carolina 28403

2. All work authorized by this permit modification must be performed in strict compliance with the attached plans, which are part of the permit.

Should you have any questions, please contact Mr. Ronnie Smith, Wilmington Field Office, Regulatory Division, at telephone (910) 251-4829.

Sincerely,

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

Enclosures

Copies Furnished (with enclosures):

Mr. Greg Burns, PE Division Engineer, Division 6 N.C. Department of Transportation Post Office Box 1150 Fayetteville, North Carolina 28302

Mr. Jim Rerko Division Environmental Officer, Division 6 N.C. Department of Transportation Post Office Box 1150 Fayetteville, North Carolina 28302

Pace Wilber, Ph.D., Chief Charleston (F/SER47) Southeast Regional Office, NOAA Fisheries Post Office Box 12559 Charleston, South Carolina 29422-2559 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 Copies Furnished (without enclosures):

Mr. Travis W. Wilson N.C. Wildlife Resource Commission 1142 I-85 Service Road Creedmoor, North Carolina 27522

Mr. Mason Herndon
N.C. Department of Environment and Natural Resources
Division of Water Quality
225 Green Street, Suite 214
Fayetteville, North Carolina 28301-5094

Mr. Gary Jordan U.S. Fish and Wildlife Service Raleigh Field Office Post Office Box 33726 Raleigh, North Carolina 27636-3726

Mr. Chris Militcher U.S. Environmental Protection Agency c/o Federal Highway Administration 310 New Bern Avenue, Room 206 Raleigh, North Carolina 27601

Ms. Renee Gledhill-Early N.C. Department of Cultural Resources 4617 Mail Service Center Raleigh, North Carolina 27699



North Carolina Department of Environment and Natural Resources

Division of Water Quality Coleen H. Sullins Dee Freeman Director Secretary FIVE December 16, 2010 Dr. Greg Thorpe, PhD., Manager 29 2010 DEC Project Development and Environmental Analysis **DIVISION OF HIGHWAYS**

PDEA-OFFICE OF NATURAL ENVIRONMENT

North Carolina Department of Transportation 1548 Mail Service Center Raleigh, North Carolina, 27699-1548

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for Proposed improvements to Fayetteville Outer Loop in Cumberland, Hoke and Robeson County, Federal Aid Project No. NHF-DPR-0100(001), State Project No. 8.244130, TIP X-002 B & C and U-2519. NCDWQ Project No. 20080737 v. 3

Dear Dr. Thorpe:

Attached hereto is a modification of original Certification No. 3758 issued to The North Carolina Department of Transportation (NCDOT) dated October 6, 2008 and modification dated June 3, 2010.

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

Sincerely,

Belinda S. Henson

Coleen H. Sullins ص Director

Attachments

cc: Ronnie Smith, US Army Corps of Engineers, Wilmington Field Office Greg Burns, PE, Division 6 Engineer Jim Rerko, Division 6 Environmental Officer Chris Militscher, Environmental Protection Agency (electronic copy only) Travis Wilson, NC Wildlife Resources Commission Leilani Paugh, NCDOT, NEU Mitigation Sonia Carrillo, NCDWQ Central Office File Copy

225 Green St., Suite 714, Fayetteville, NC 28301-5043 Phone: 910-433-3300 \ FAX: 910-486-0707 Internet: www.ncwaterquality.org



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Beverly Eaves Perdue Governor

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

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (NCDWQ) Regulations in 15 NCAC 2H .0500. This certification modification authorizes the NCDOT to impact an additional 0.19 acres of jurisdictional wetlands and 410 linear feet of jurisdictional streams in Cumberland County. The project shall be constructed pursuant to the modification dated received October 14, 2010. The new authorized impacts are as described below:

		Revised X-00020	C (Site 8) Stream	Impacts in the Ca	pe Fear River B	asin
Site	Permanent Fill in Intermittent Stream (linear ft)	Temporary Fill in Intermittent Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
Original approved impacts at Site 8	509		(509	
New additional impacts with this approval at Site 8	410				410	410
Total	919				919	410

Revised Total Stream Impact for Site 8: 919 linear feet

Revised X-0002C (Site 8) Wetland Impacts in the Cape Fear River Basin (non-riverine)

Site	Fill (ac)	Fill (temporary)	Excavation (ac)	Mechanized Clearing	Hand Clearing	Area under Bridge	Total Wetland	
		(ac)		(ac)	(ac)	(ac)	Impact (ac)	
Original approved impacts at Site 8	0.09			0.04	0.21		0.13	
New revised impacts with this approval at Site 8	0.29			0.03	0.00		0.32	
	0.29			0.03	0.00		0.32	
Total								

Revised Total Wetland Impact for Site 8: 0.32 acres.

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

This approval is only valid for the purpose and design that you submitted in your modified application dated received October 14, 2010. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 6, 2008 and modification dated June 3, 2010 still apply except where superceded by this certification. Should your project change, you are required to notify NCDWQ 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.

Condition(s) of Certification:

- 1. Compensatory mitigation for the additional 0.19 acres of wetland impacts is required at a 2:1 ratio. Compensatory mitigation for the additional 410 feet of stream impacts is required at 1.5:1 ratio. We understand that you have chosen to debit mitigation from Privateer Farm Mitigation Bank. This certification gives you approval to debit 0.38 acres of wetland mitigation and 615 ft of stream mitigation from the Privateer Mitigation Site to satisfy the mitigation requirements of this permit modification.
- 2. All other conditions written into previous Water Quality Certifications dated October 6, 2008 and June 3, 2010 for this project still apply.

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

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

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

Office of Administrative Hearings 6714 Mail Service Center Raleigh, NC 27699-6714 Telephone: (919)-733-2698, Facsimile: (919)-733-3478

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

Ms. Mary Penny Thompson, General Counsel Department of Environment and Natural Resources 1601 Mail Service Center Raleigh, NC 27699-1601

This the 16th day of December 2010

DIVISION OF WATER QUALITY

Coleen H. Sullins Director

NCDWQ Project No.:	County:
Applicant:	
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Date of Issuance of 401 Water Quality	ty Certification:
any subsequent modifications, the appli Unit, North Carolina Division of Water	within the 401 Water Quality Certification or applicable Buffer Rules, and icant is required to return this certificate to the 401 Transportation Permitting r Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form plicant, the applicant's authorized agent, or the project engineer. It is not of these.
Applicant's Certification I, was used in the observation of the cons compliance and intent of the 401 Water specifications, and other supporting ma	, hereby state that, to the best of my abilities, due care and diligence struction such that the construction was observed to be built within substantial r Quality Certification and Buffer Rules, the approved plans and aterials.
Signature:	Date:
	, hereby state that, to the best of my abilities, due care and diligence struction such that the construction was observed to be built within substantial r Quality Certification and Buffer Rules, the approved plans and aterials.
Signature:	Date:
Carolina, having been authorized to ob Permittee hereby state that, to the best construction such that the construction	1, as a duly registered Professional Engineer in the State of North serve (periodically, weekly, full time) the construction of the project, for the of my abilities, due care and diligence was used in the observation of the was observed to be built within substantial compliance and intent of the 401 Rules, the approved plans and specifications, and other supporting materials.
Signature	Registration No
Date	



North Carolina Department of Environment and Natural Resources

Division of Water Quality Coleen H. Sullins Director

June 3, 2010

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

Dee Freeman RE(Secretary JUN 2010 DIVISION OF HIGHWAYS PDEA-OFFICE OF NATURAL ENVIRONME

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water with ADDITIONAL CONDITIONS for Proposed Fayetteville Outer Loop in Cumberland, Hoke and Robeson Counties, Federal Aid Project No. NHF-DPR-0100(001), State Project No. 8.2441301, TIP Nos. X-002 B&C and U-2519.
 DWQ Project No. 20080737 ver. 2.

Dear Dr. Thorpe:

Beverly Eaves Perdue

Governor

Attached hereto is a modification of Certification No. 3758 issued to The North Carolina Department of Transportation (NCDOT) originally dated October 6, 2008.

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

Sincerely

Coleen H. Sullins Director

Attachments

cc: Tom Walker, US Army Corps of Engineers, Wilmington Field Office Jim Rerko, Division 6 Environmental Officer LeiLani Paugh, NCDOT NEU NCDWQ Fayetteville Regional Office File Copy

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

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

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (NCDWQ) Regulations in 15 NCAC 2H .0500. This certification modification authorizes the NCDOT to impact an additional 0.24 acres of jurisdictional wetlands in Cumberland County. The project shall be constructed pursuant to the modification dated received May 27, 2010. The new authorized impacts are as described below:

Additional Section X-002 C Wetland Impacts in the Cape Fear River Basin

Site	Permanent Fill (ac)	Excavation (ac)	Mechanized Clearing (ac)	Total Wetland Impact (ac)
10	0.19	0.01	0.04	0.24
Total	0.19	0.01	0.04	0.24

Total Additional Wetland Impact for Section X-002 C: 0.24 acres.

Revised Section X-002 C Open Water (Ponds) Impacts in the Cape Fear River Basin
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Site	Permanent Fill in Open Waters (ac)
3	0.73
9	2.53
Total	3.26

Revised Total Open Water Impact for Section X-002 C: 3.26 acres.

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

This approval is only valid for the purpose and design that you submitted in your modified application dated received May 27, 2010. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 6, 2008 still apply except where superceded by this certification. Should your project change, you are required to notify NCDWQ 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:

1. Compensatory mitigation for 0.24 acres of wetlands is required at a 2:1 ratio. We understand that you have chosen to debit mitigation from the Privateer Farm Mitigation Bank. This certification gives approval to the debiting of 0.48 acres of wetland mitigation from the Privateer Farms Mitigation Site in order to satisfy the mitigation requirements of this project modification.

2. All other conditions written into previous Water Quality Certification dated October 6, 2008 for this project still apply.

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

If 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 3rd day of June 2010

DIVISION OF WATER QUALITY

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Coleen H. Sullins Director

WQC No. 3758

NCDWQ Project No.:	County:
Applicant:	
Project Name:	
Date of Issuance of 401 Water Quality Certification:	
any subsequent modifications, the applicant is required Unit, North Carolina Division of Water Quality, 1650 M	Vater Quality Certification or applicable Buffer Rules, and to return this certificate to the 401 Transportation Permitting fail Service Center, Raleigh, NC, 27699-1650. This form cant's authorized agent, or the project engineer. It is not
Applicant's Certification	
l,, hereby was used in the observation of the construction such tha compliance and intent of the 401 Water Quality Certific specifications, and other supporting materials.	y state that, to the best of my abilities, due care and diligence t the construction was observed to be built within substantial ation and Buffer Rules, the approved plans and
Signature:	Date:
Agent's Certification 1,, hereby was used in the observation of the construction such tha compliance and intent of the 401 Water Quality Certific specifications, and other supporting materials.	y state that, to the best of my abilities, due care and diligence at the construction was observed to be built within substantial cation and Buffer Rules, the approved plans and
Signature:	Date:
Engineer's Certification Partial Final ,, as a Carolina, having been authorized to observe (periodical Permittee hereby state that, to the best of my abilities, d construction such that the construction was observed to	a duly registered Professional Engineer in the State of North lly, weekly, full time) the construction of the project, for the lue care and diligence was used in the observation of the be built within substantial compliance and intent of the 401 oved plans and specifications, and other supporting materials.
Signature	Registration No.

Date _____

IS	Natural	Stream	Design								-				NSPORTATIC IWAYS	COUNTY (X-0002C)	REV. 7/28/2010
SURFACE WATER IMPACTS	Existing Channel	Impacts	Permanent (ft)	279		775		361	479	213	919	98	207	3332	NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS	CUMBERLAND COUNTY WBS - 35196.1.2 (X-000	er Rev.
JRFACE W/	Temp	SW	impacts (ac)												NC DEPART DIV	CUI WBS -	SHEET
ND IMPACTS SI	Permanent	SW	impacts (ac)	0.04		0.86		0.02	0.04	0.01	0.11	2.54	0.01	3.63			<u></u>
	Hand Clearing	, LI	Wetlands (ac)				0.55							0.55			
CTS	Excavation Mechanized	Clearing	in Wetlands (ac)	0.10	0.08	0.05	0.08	0.06	0.09	0.05	0.03		0.04	0.59			
WETLAND IMPACTS	Excavation	.⊑	Wetlands (ac)	0.03	0.02								0.01	0.06			
WET	Temp.	- u III	Wetlands (ac)	· · ·										ON = 0.01 a			
	Permanent	Fill In	Wetlands (ac)	1.11	0.50	0.76	0.36	0.69	1.68	1.55	0.29		0.19	7.12 TO EXCAVAT			
		Structure	Size / Type	72" RCP	42" RCP	2 @ 6' x 7' RCBC	325' Bridge	54" RCP	60" RCP	36" RCP	48" RCP	2 @ 6' x 7' RCBC	48" RCP	SITE 10: LATERAL EFFECT ON WETLAND DUE TO EXCAVATION = 0.01 ac			
		Station	(From/To)	83+50-85+00 -L-	92+90-93+80 -L-	105+15-105+70 -L-	117+95-118+70 -L-	129+60-130+20 -L-	135+55-137+00 -L-	141+30-142+30 -L-	144+45-144+90 -L-	14+20 -Y-Rev	13+66-14+06 -Y1-	SITE 10: LATERAL EFF	EIL IN SUBEACE WATEDS (DONID)	<u>FILL IN SURFACE WA1</u> SITE 3: 0.73 ac SITE 9: 2.53 ac	
		Site	No.	-	2	e	4	5	9	7	8	6	10	TOTALS:	_	•	JMD Revised 2/03/05

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