

PROJECT SPECIAL PROVISION

(10-18-95)

Z-1

PERMITS

The Contractor's attention is directed to the following permits, which have been issued to the Department of Transportation by the authority granting the permit.

PERMIT

AUTHORITY GRANTING THE PERMIT

Dredge and Fill and/or
Work in Navigable Waters (404)
Water Quality (401)

U. S. Army Corps of Engineers
Division of Environmental Management, DENR
State of North Carolina

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the department and the Contractor has no responsibility in accomplishing those conditions.

Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-14 of the *Standard Specifications* and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.

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N-3622AA

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

RECEIVED
JUN 04 2008

Action ID: SAW-2008-1431 County: Cherokee USGS Quad: Persimmon Creek

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: Mark S. Davis, Division 14 Environmental Program Supervisor
NCDOT

Address: 253 Webster Road
Sylva, NC 28779

Telephone No.: 828-586-2141

Size and location of property (water body, road name/number, town, etc.): Bridge No. 50 on NC Highway 294 over Persimmon Creek near Murphy, NC.

Description of projects area and activity: To replace Bridge No. 50 over Persimmon Creek. The new bridge will be constructed just downstream of the existing structure. Approach work will result in 1.59 acre of wetland impacts and 205 LF of perennial stream loss from the extension of a box culvert

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: Regional General Permit Number: 198200031
Nationwide Permit Number:

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

Special Conditions

1. All work must be performed in strict compliance with the plans received by this office on April 28, 2008, which are a part of this permit. Any modification to the permit plans must be approved by the USACE prior to implementation
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.
2. 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.
3. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area.
4. All conditions of the attached North Carolina Wildlife Resources Commission letter of May 6, 2008 are hereby incorporated as special conditions of this permit.
5. The permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act in writing to the Wilmington District, U. S Army Corps of Engineers, within 24 hours of the permittee's discovery of the violation.
6. The unavoidable impacts to 205 linear feet of stream and 1.59 acre of wetlands associated with this project shall be mitigated by NCDOT by providing 410 linear feet of restoration equivalent cool water stream channel and 1.59 acre of riparian wetlands in the Hiwassee River basin (Hydrologic Cataloging Unit 06020002). NCDOT shall provide a plan to the USACE for addressing this mitigation requirement by

June 30, 2008. It is recommended that NCDOT provide this mitigation in accordance with the procedures suggested in our letter dated September 1, 2004 from Mr. Ken Jolly to Dr. Gregory J. Thorpe.

This verification will remain valid until the expiration date identified below unless the nationwide authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all requirements of the modified nationwide permit. If the nationwide permit authorization expires or is suspended, revoked, or is modified, such that the activity would no longer comply with the terms and conditions of the nationwide permit, activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon the nationwide permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide permit's expiration, modification or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend or revoke the authorization.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management.

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact David Baker at 828-271-7980.

Corps Regulatory Official David Baker Date: May 30, 2008

Expiration Date of Verification: August 31, 2008

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://regulatory.usacesurvey.com/> to complete the survey online.

Determination of Jurisdiction:

- A. Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- B. There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- C. There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- D. The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued _____. Action ID _____

Basis of Jurisdictional Determination: The site contains wetlands as determined by the USACE 1987 Wetland Delineation Manual and is adjacent to stream channels that exhibit indicators of ordinary high water marks. The stream channel on the property is a tributary to Persimmon Creek which flows into the Hiwassee River and finally into the Tennessee River which is a Section 10 navigable-in-fact waterway (TNW).

Appeals Information: (This information does not apply to preliminary determinations as indicated by paragraph A. above).

Attached to this verification is an approved jurisdictional determination. If you are not in agreement with that approved jurisdictional determination, you can make an administrative appeal under 33 CFR 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

District Engineer, Wilmington Regulatory Program
Attn: David Baker, Project Manager
151 Patton Avenue, Room 208
Asheville, North Carolina 28801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address within 60 days from the *Issue Date* below.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.

Corps Regulatory Official: David Baker

Issue Date: May 30, 2008

Expiration Date: May 30, 2013

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

Permit Number: SAW-2008-1431-
 Permit Type: General Permit 198200031
 Name of County: Cherokee
 Name of Permittee: **Mark S. Davis, Division 14 Environmental Program Supervisor
 NCDOT**
 Date of Issuance: May 30, 2008
 Project Manager: David Baker

*Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
 Attention: CESA W-RG-A
 151 Patton Avenue, Room 208
 Asheville, North Carolina 28801-5006

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

 Signature of Permittee

 Date

SECTION I: INITIAL PROFFERED PERMIT, PROFFERED PERMIT, PERMIT DENIAL, APPROVED JURISDICTIONAL DETERMINATION, AND PRELIMINARY JURISDICTIONAL DETERMINATION

| | | | |
|---|--|----------------------------|--------------------|
| Applicant: Davis, Division 14 Environmental Program Supervisor, NCDOT | | File Number: SAW-2008-1431 | Date: May 30, 2008 |
| Attached is: | | | See Section below |
| <input type="checkbox"/> | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) | | A |
| <input type="checkbox"/> | PROFFERED PERMIT (Standard Permit or Letter of permission) | | B |
| <input type="checkbox"/> | PERMIT DENIAL | | C |
| <input checked="" type="checkbox"/> | APPROVED JURISDICTIONAL DETERMINATION | | D |
| <input type="checkbox"/> | PRELIMINARY JURISDICTIONAL DETERMINATION | | E |

SECTION I: The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/or/Coms/regulations/33/CFR/Part/33/>.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION

If you have questions regarding this decision and/or the appeal process you may contact:

David Baker, Project Manager
 USACE, Asheville Regulatory Field Office
 151 Patton Ave, Room 208
 Asheville, NC 28806
 828-271-7980

If you only have questions regarding the appeal process you may also contact:

Mr. Michael F. Bell,
 Administrative Appeal Review Officer
 CESAD-ET-CO-R
 U.S. Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 9M15
 Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

| | | |
|---|-------|-------------------|
| _____ Signature of appellant or agent. | Date: | Telephone number: |
|---|-------|-------------------|

For appeals on Initial Proffered Permits and approved Jurisdictional Determinations send this form to:

District Engineer, Wilmington Regulatory Division, Attn: David Baker, Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC 28801.

For Permit denials and Proffered Permits send this form to:

Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Mike Bell, Administrative Appeal Officer, CESAD-ET-CO-R, 60 Forsyth Street, Room 9M15, Atlanta, Georgia 30303-8801

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☒ North Carolina Wildlife Resources Commission ☒

May 6, 2008

Mr. David Baker
U.S. Army Corps of Engineers, Regulatory Branch
151 Patton Avenue, Room 208
Asheville, North Carolina 28801-5006

SUBJECT: NCDOT General Permit Application
NC 294, Bridge No. 50 over Persimmon Creek, Cherokee County
TIP No. R-3622AA

Dear Mr. Baker:

Mr. Mark Davis of the North Carolina Department of Transportation (NCDOT) requested a letter of concurrence from the North Carolina Wildlife Resources Commission (Commission) for a 404 Permit from the U.S. Army Corps of Engineers (ACOE). Comments from the Commission are provided under provisions of the Clean Water Act of 1977 (33 U.S.C. 466 et. seq.) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d).

NCDOT plans to replace Bridge Number 50 over Persimmon Creek near Murphy. There will be about 1 acre and 205 feet of permanent wetland and stream fills, respectively. The stream fill is associated with extending a box culvert in a tributary to Cherokee Lake to about 140 feet. The bridge over Persimmon Creek will span the base channel.

The project should not harm trout.

The Commission can concur with a permit for the project if the following recommended conditions are attached and used to help conserve fish and wildlife resources:

1. The Nationwide and Final Regional conditions, with exception of 1.2, are adhered to. For box culverts that are longer than 50 linear feet, alternating or notched baffles are installed in a manner that mimics the existing stream pattern.

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • **Fax:** (919) 707-0028

2. Sediment and erosion control measures are used and maintained until all disturbed soils are permanently stabilized. All bare soil is seeded as soon as possible following disturbance. Erosion control matting is used with seeding on disturbed stream banks and is anchored with staples, stakes, or, wherever possible, live stakes of native trees. Tall fescue is not used along streams.
3. Any concrete work is isolated from water because uncured concrete can kill aquatic life.
4. Rock, sand, or other materials are not excavated from stream channels except in the immediate permitted areas. The natural dimension, pattern, and profile of the channels upstream and downstream of any stream crossings are not modified.
5. Sandbags, flexible pipe, or other stable diversion structures are used to avoid excavation in flowing water.
6. Storm water from roadways and bridge decks is directed to vegetated buffer areas or detention basins and not routed directly to streams as concentrated flow.
7. Riparian vegetation, especially trees and shrubs, is preserved as much as possible. Native woody vegetation (e.g., rhododendron, dog hobble, silky dogwood, sycamore, river birch, red maple) is replanted upstream and downstream of stream crossings to provide bank stability and shading if vegetation is removed during construction.
8. Waste materials are disposed of in a suitable upland site and not in or along the streams and wetlands.
9. All heavy equipment operated near streams is inspected and maintained regularly to prevent contamination by fuels, lubricants, or hydraulic fluids.
10. Hydroseed mixtures and wash-waters do not reach streams.
11. Rock is not placed on stream beds where flow or aquatic life movements are impeded. Bank armoring is restricted to below the high water mark and vegetation is used above.
12. Abandon road fills and structures that will not be incorporated into the road and bridge realignment are removed down to natural grade.

Thank you for the opportunity to review and comment on this project. Pending availability of field staff, the Commission may inspect the work site during or after construction. If there are any questions regarding these comments, please contact me at (828) 452-2546 extension 24.

Sincerely,



Dave McHenry
Mountain Region Coordinator
Habitat Conservation Program

cc: Mr. Mark Davis, Division 14 Environmental Officer, NCDOT
Mr. Mike Parker, Division of Water Quality, Asheville
Mr. Ed Ingle, Roadside Environmental Field Operations Engineer, NCDOT
Mrs. Marla Chambers, NC Wildlife Resources Commission

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Regional General Permit No. 198200031
Name of Permittee: General Public
Effective Date: September 1, 2003
Expiration Date: August 31, 2008

DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT

A regional general permit (RGP) to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and re-issued by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE CONSTRUCTION, MAINTENANCE AND REPAIR OF BRIDGES, INCLUDING COFFERDAMS, ABUTMENTS, FOUNDATION SEALS, PIERS, APPROACH FILLS, DETOUR FILLS, BOX CULVERT INSTALLATION AND TEMPORARY CONSTRUCTION AND ACCESS FILLS, IN WATERS OF THE UNITED STATES AS PART OF WORK CONDUCTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) OR OTHER STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE STATE OF NORTH CAROLINA.

1. Special Conditions.

a. Written confirmation that the proposed work complies with this RGP must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the Wilmington District Engineer a pre-construction notification with the following information:

- (1) A map indicating the location of the work.
- (2) Plans of the proposed work showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the normal/high water elevation contours.
- (3) A brief discussion of the affected aquatic resources, including streams and wetlands. The discussion shall include the identification and types of vegetation present.
- (4) Approximate commencement and completion dates.
- (5) A description of methods to be employed to avoid and/or minimize permanent and temporary impacts to aquatic resources caused by the proposed work.
- (6) Plans, including timetables and techniques, for construction, stabilization and removal of all unavoidable temporary fills.
- (7) Names and addresses of adjoining property owners.

b. In the case of fills of one acre or less, including permanent approach fills, detour fills and fills associated with culvert installation, the Corps of Engineers' Project Manager will determine, after appropriate onsite visits and review of plans, if the impacts on aquatic resources, including streams and wetlands, are likely to be such as to require review by Federal and State agencies. If it is determined that impacts are minimal or can be made minimal by changes agreed to by the applicant, a letter of authorization to proceed will be provided. If it is determined that review by Federal and State agencies is necessary to fully evaluate impacts, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment and Natural Resources (NCDENR). These agencies will furnish comments to the Wilmington District Engineer within thirty (30) days.

c. In cases of fills greater than one acre, copies of all plans and materials will be forwarded to the USFWS, the NMFS, the EPA and the NCDENR. These agencies will furnish comments to the Wilmington District Engineer in thirty (30) days. In cases of land disturbing activities comprising more than one acre, a Sedimentation/Erosion Control Plan will be filed with the North Carolina Division of Land Resources, Land Quality Section, thirty (30) days prior to commencing work.

d. Where work is proposed within the twenty (20) coastal counties, as defined by the North Carolina Division of Coastal Management, the applicant shall forward a copy of the pre-construction notification to:

National Marine Fisheries Service
 101 Pivers Island Road
 Beaufort, North Carolina 28516

The counties in which this condition applies are:

| | | | | |
|-------------|------------|---------|----------|------------|
| Beaufort | Hertford | Bertie | Hyde | Brunswick |
| New Hanover | Camden | Onslow | Carteret | Pamlico |
| Chowan | Pasquotank | Craven | Pender | Currituck |
| Perquimans | Dare | Tyrrell | Gates | Washington |

e. In the event that any Federal agency maintains an objection or any required State authorization is outstanding, no notice to proceed will be given until objections are resolved and State authorizations are issued.

f. No work will proceed until after the applicant has received written notice to proceed from the Wilmington District Engineer. This notice may include additional conditions and/or restrictions. Copies of the notice to proceed will be furnished to the USFWS, the NMFS, the EPA and the NCDENR with a brief description of the work, including the area of wetlands affected and the quantity of fill material.

g. Upon completion of any work authorized by this RGP, all temporary fills will be completely removed and the area reestablished as a wetland by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

h. Appropriate soil and erosion control measures must be established and maintained during construction. All fills, temporary and permanent, must be adequately stabilized at the earliest practicable date to prevent erosion of fill material into adjacent waters or wetlands.

i. In cases where new alignment approaches are to be constructed and the existing wetland approach fill is to be abandoned and no longer to be maintained as a roadway, the abandoned fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

j. Discharges of dredged or fill material into waters of the United States, including wetlands, must be minimized or avoided to the maximum extent practicable. In reviewing an activity, the Wilmington District Engineer will first determine whether the activity will result in more than minimal adverse environmental affects. For activities that are determined to have more than minimal impacts, compensatory mitigation will be required. To expedite the process, the applicant will provide a mitigation plan with the request for authorization. Site specific mitigation proposals will include, but are not necessarily limited to, a description of work, a

schedule of work and a monitoring plan, and they will be in accordance with currently approved Wilmington District and/or Corps-wide mitigation guidelines. The applicant may propose other forms of mitigation, such as mitigation bank credits or in-lieu fee mitigation with the notification, which in some situations and at the discretion of the Wilmington District, may be considered acceptable mitigation.

k. Activities in any North Carolina designated "Mountain Trout Waters" must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission (NCWRC) and/or the North Carolina Division of Water Quality (NCDWQ). Work that may result in the sedimentation of trout waters will generally be prohibited from October 15 to April 15, of any year, to avoid impacts on trout spawning.

l. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain and provide a letter of comments and recommendations from the North NCWRC on the proposed activities. A discussion of alternatives to working in the mountain trout waters and why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the mountain trout waters shall also be submitted with the letter from NCWRC. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The applicant should contact:

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

The counties in which this condition applies are:

| | | | | |
|--------------|----------|------------|----------|-------------|
| Alleghany | Ashe | Avcry | Buncombe | Burke |
| Caldwell | Cherokee | Clay | Graham | Haywood |
| Henderson | Jackson | Macon | Madison | McDowell |
| Mitchell | Polk | Rutherford | Stokes | Surry Swain |
| Transylvania | Watauga | Wilkes | Yancey | |

m. This permit does not authorize the use of culverts in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC).

n. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the NCWRC as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval

from NCDMF or NCWRC and the Corps. Discharges into waters of the United States designated by NCDMF as primary nursery areas and discharges into waters of the United States designated by NCWRC as inland nursery areas shall be coordinated with NCDMF and NCWRC prior to being authorized by this RGP. Coordination with NCDMF and NCWRC may result in a required construction moratorium during periods of significant biological productivity or critical life stages.

The Applicant should contact:

NC Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Telephone 252-726-7021
or 800-682-2632

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

o. No activity may result in substantial permanent disruption of the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.

p. This permit generally allows the permanent installation of culverts to 100 feet in length. For culverts longer than 100 feet, the proposed application will be closely evaluated to determine if unacceptable impacts on movement of aquatic organisms would result. In such cases, approval may not be provided.

q. If the project is located within the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA), then all pipe and culvert inverts will be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets. If the project is not located within the twenty (20) counties of North Carolina designated as coastal counties by CAMA, then culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this condition would result in more adverse impacts to the aquatic environment.

r. All activities authorized by this RGP shall, to the extent practicable, be conducted "in the dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Where concrete is utilized, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted.

s. If the project authorized by this RGP is proposed by a Federal or State agency, and is located within the twenty (20) counties of North Carolina designated as coastal counties by the CAMA, then prior to project initiation the proponent must obtain a determination of consistency with the state's coastal management program from the N.C. Division of Coastal Management (DCM). A copy of the state's consistency determination must be provided to the appropriate Wilmington District Regulatory Office at the following address:

Wilmington Regulatory Field Office
P.O. Box 1890
Wilmington, NC 28402

Washington Regulatory Field Office
P.O. Box 1000
Washington, NC 27889

The state's consistency determination will be conveyed in the form of a CAMA permit if the project is located within a designated CAMA Area of Environmental Concern (AEC), and will be conveyed in the form of a Consistency Determination letter from DCM if the project is not located within a designated CAMA AEC.

t. No work shall be authorized by the RGP within the twenty coastal counties, as defined by the North Carolina Division of Coastal Management, without prior consultation with NOAA Fisheries. For each activity reviewed by the Corps of Engineers where it is determined that the activity may affect Essential Fish Habitat (EFH) for Federally managed species, an EFH Assessment shall be prepared by the applicant and forwarded to the Corps of Engineers and NOAA Fisheries for review and comment prior to authorization of work.

u. All work will comply with Water Quality Certification No. 3404, issued by the NCDWQ on 28 March 2003.

v. The activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows

2. General Conditions.

a. All activities authorized by this RGP that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the NCDWQ regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this RGP.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this RGP, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout waters, are not considered significant.

f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

g. This RGP does not convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a CAMA Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this RGP may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this RGP shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

i. This RGP does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or results from existing or future operations undertaken by the United States in the public interest.

j. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This RGP will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas that possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 as amended, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or critical habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

(5) NOAA designated marine sanctuaries, National Estuarine Research Reserves, and coral reefs.

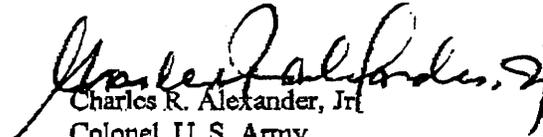
l. Permittees are advised that activities in or near a floodway may be subject to the National Flood Insurance Program, which prohibits any activities, including fill within a floodway that results in any increase in base flood elevations.

m. At his discretion, the Wilmington District Engineer may determine that this RGP will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

n. The permittee or the permittee's successors will maintain the authorized work in good condition and in conformance with the terms and conditions of the RGP.

o. The discharge of dredged or fill material shall consist of suitable material free from toxic pollutants in toxic amounts.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


Charles R. Alexander, Jr.
Colonel, U. S. Army
District Engineer



May 9, 2008
Cherokee County
DWQ Project 20080762
Bridge No.50 NC Highway 294
TIP No. R-3622AA

RECEIVED
MAY 13 2008

Approval of 401 Water Quality Certification with Additional Conditions

Mr. J. B Setzer, P.E.
Division Engineer
North Carolina Department of Transportation
253 Webster Road
Sylva, North Carolina, 28779

Dear Mr. Setzer:

You have our approval, in accordance with the conditions listed below, for the following impacts to Persimmon Creek for the purpose of constructing a new bridge (Bridge No.50) on NC Highway 294 in Cherokee County:

Table 1-Stream Impacts in the Hiwassee River Basin for R-3622AA

| Site | Permanent Fill in Intermittent Stream (linear ft) | Temporary Fill in Intermittent Stream (linear ft) | Permanent Fill in Perennial Stream (linear ft) | Temporary Dewatering in Perennial Stream (linear ft) | Total Stream Impact (linear ft) | Stream Impacts Requiring Mitigation (linear ft) |
|----------------------|---|---|--|--|---------------------------------|---|
| Site 7- Sta. 60+00-L | 0 | 0 | 205 | 150 | 355 | 205 |
| Total | 0 | 0 | 205 | 150 | 355 | 205 |

Total Permanent Stream Impact for Project: 205 linear feet. Temporary Impacts for Project: 150 linear feet.

Table 2 - Wetland Impacts in the Hiwassee River Basin for R-3622AA

| Site | Fill (ac) | Fill (temporary) (ac) | Excavation (ac) | Mechanized Clearing (ac) | Hand Clearing (ac) | Area under Bridge (ac) | Total Wetland Impact (ac) |
|---------------------------|-------------|-----------------------|-----------------|--------------------------|--------------------|------------------------|---------------------------|
| Site 3 Sta. 47+60-50+00-L | 0.02 | 0 | 0 | 0 | 0.07 | 0 | 0.09 |
| Site 4 Sta. 52+00-55+00-L | 0.11 | 0 | 0 | 0.12 | 0.08 | 0 | 0.31 |
| Site 5 Sta. 55+00-L-RT | 0 | 0 | 0 | 0 | 0.04 | 0 | 0.04 |
| Site 6 Sta. 55+00-60+00-L | 0.87 | 0 | 0 | 0.24 | 0 | 0 | 1.11 |
| Site 7 Sta. 60+00-L | 0 | 0 | 0 | 0.02 | 0 | 0 | 0.02 |
| Site 8 Sta. 65+95-L | 0.01 | 0 | 0 | 0.01 | 0 | 0 | 0.02 |
| Total | 1.01 | 0 | 0 | 0.39 | 0.19 | 0 | 1.59 |

Total Wetland Impact for R-3622AA: 1.59 acres.



Mr. J. B. Setzer, P.E.
May 9, 2008
Page Two

The project should be constructed in accordance with your application dated April 28, 2008 (received May 1, 2008), including the environmental commitments made in the application letter. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification No. 3704, corresponding to the U.S. Army Corps of Engineers Regional General Permit Number 31. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must 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 conditions. If total wetland fills for this project (now or in the future) exceed one acre, or if total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). *For this approval to be valid, you must follow the conditions listed in the attached certification and any additional conditions listed below.*

1. There shall be no excavation from or waste disposal into, jurisdictional wetlands or waters associated with this permit 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.
2. Sediment and erosion control measures must be installed and maintained on the project site until all disturbed soils are permanently stabilized. All bare soil should be seeded as soon as possible following disturbance. Erosion control matting shall be used in conjunction with appropriate seeding on disturbed stream banks. Matting should be secured in place with staples or wherever possible, live stakes of native trees. Tall fescue shall not be used in riparian areas.
3. All channel relocations will be constructed in a dry work area and stabilized before stream flows are diverted. Channel relocations will be completed and stabilized, and must be approved on site by DWQ staff, prior to diverting water into the new channel. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30-foot wide wooded and an adjacent 20-foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practicable. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, riprap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of riprap coverage area.
- * 4. Compensatory Mitigation for impacts of 205 linear feet of stream and 1.59 acres of riverine wetlands 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 April 28, 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 April 12, 2004.
5. If multiple pipes or barrels are required, they shall be designed to mimic the natural stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream shall 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.
6. The post-construction removal of any temporary bridge structures must return the project site to its preconstruction contours and elevations. The impacted area shall be revegetated with appropriate native species.
7. Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.
8. Bridge deck drains should not discharge directly into the streams. 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*.

9. For projects impacting waters classified by the NC Environmental Management Commission as Trout (Tr), High Quality Waters (HQW) or Water Supply I or II (WS-I, WS-II), stormwater shall be directed to vegetated buffer areas, grass-lined ditches or other means appropriate to the site for the purpose of pre-treating stormwater runoff prior to discharging directly into streams. Mowing of existing vegetated buffer areas is strongly discouraged.
10. The dimension, pattern and profile of the stream, above and below the bridge, shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
11. Native riparian vegetation (e.g. rhododendron, dog hobble, willows, alders, sycamores, dogwoods, black walnut and red maple) must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
12. 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.
13. Rip-rap 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.
14. Heavy equipment shall be operated from the banks rather than in the stream channels in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
15. 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.
- * 16. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.
17. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
18. No rock, sand or other materials shall be dredged from the stream channel, except where authorized by this certification.
19. A copy of this Water Quality Certification shall be maintained on 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.
20. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.
21. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization 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.
22. 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.
23. The Permittee shall report any violations of this certification to the Division of Water Quality within 24-hours of discovery.
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 or Federal law. If DWQ determines that such standards or laws are not being met (including failure to sustain a designated 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. Upon completion of the project, the NCDOT Division Engineer shall complete and return the enclosed "Certificate of Completion Form" to notify NCDWQ when all work included in the §401 Certification has been completed. This form shall be returned to the Transportation Permitting Unit of the NC Division of Water Quality, 2321 Crabtree Blvd., Suite 250, Raleigh, North Carolina 27604.

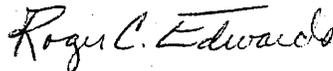
Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This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

Mr. J. B. Setzer
May 9, 2008
Page Four

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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.

Sincerely,



for Coleen H. Sullins, Director
Division of Water Quality

cc: Mark Davis, Division 14 DEO
Marella Buncick, USFWS
Rebecca Fox, USEPA
Ed Ingle, Roadside Environmental
David Baker, USACE, Asheville Field Office
Transportation Permitting Unit
Asheville Regional Office

080762 (Setzer) R-3622AA NC Hwy. 294



Tennessee Valley Authority, 221 Old Ranger Road, Murphy, North Carolina 28906

June 17, 2008

RECEIVED

JUN 18 2008

DIVISION 14

Mr. Mark S. Davis
North Carolina Department of Transportation
253 Webster Road
Sylva, North Carolina 28779

Dear Mr. Davis:

PROPOSED UPGRADE OF NC 294 FROM SR 1308 (SANDY GAP ROAD) TO SR 1130 (SUNNY POINT ROAD) AND REPLACEMENT OF BRIDGE NO. 50 OVER PERSIMMON CREEK – CHEROKEE COUNTY, NORTH CAROLINA – TIP PROJECT NO. R-3622AA - QUAD MAP NO. 141SW

This refers to your May 7th letter requesting that TVA review project plans for the proposed highway 294 upgrade and replacement of the bridge number 50 over Persimmon Creek in Cherokee County, North Carolina.

According to the plans provided, the proposed replacement bridge is of the same or greater hydraulic capacity as the existing bridge. Based on this information and the Environmental Assessment/Finding of No Significant Impact prepared for the State of North Carolina Department of Transportation, the project as proposed will create no new or additional obstructions. Therefore, further review under Section 26a is not required. TVA has no objection to your proceeding with the work if constructed and installed in accordance with the plans submitted. Any revisions of the plans as submitted should be sent to us for review before you proceed with any modifications of the proposed work.

In issuing this letter, TVA assumes no liability and undertakes no obligation or duty (in tort, contract, strict liability, or otherwise) to you or to any third party for any damages to property (real or personal) or personal injuries (including death) arising out of or any way connected with the construction, operation or maintenance of the structure that is the subject of this letter.

If we can be of further assistance, please contact Rupert Westfield at (828) 837-4449 or me at (828) 837-0237.

Sincerely,

A handwritten signature in black ink, appearing to read "Evan R. Crews".

Evan R. Crews
Watershed Supervisor
Chickamauga/Hiwassee Watershed Team