

**28**  
**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.

<b><u>PERMIT</u></b>	<b><u>AUTHORITY GRANTING THE PERMIT</u></b>
Dredge and Fill and/or Work in Navigable Waters (404)	U. S. Army Corps of Engineers
State Dredge and Fill and/or CAMA	Division of Coastal Management, DENR State of North Carolina
Water Quality (401)	Division of Environmental Management, DENR State of North Carolina
Special Use Permit	U. S. Dept. of the Interior, Fish and Wildlife Service

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.**



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY E. PURDUE  
GOVERNOR

GENE CONTII  
SECRETARY

May 19, 2009

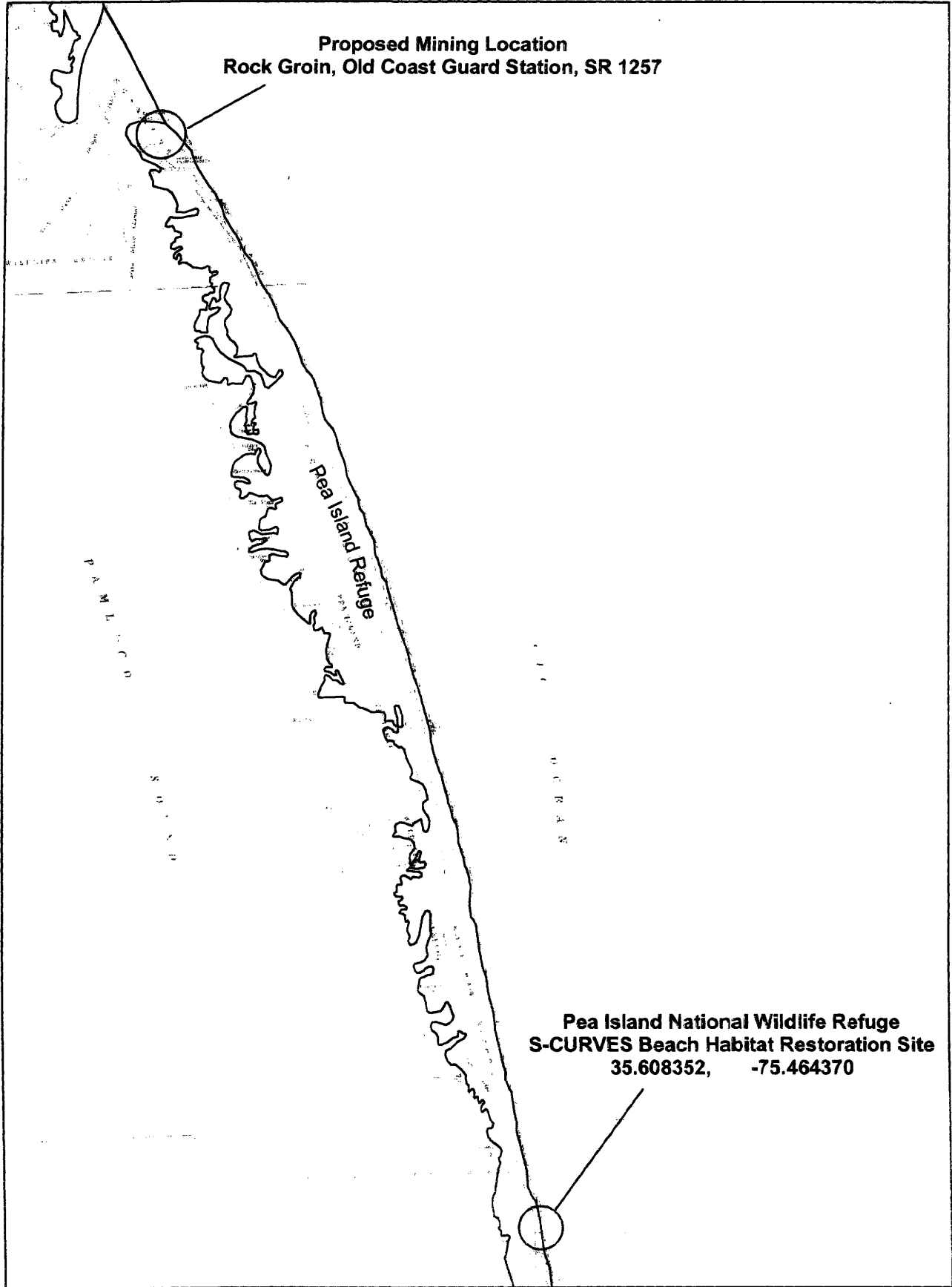
Memorandum To: Scott Fenwick

From: Clay Willis

Subject: Pea Island S-Curves Beach Habitat Restoration Permits, Dare County

Included with this letter are the CAMA Major Permit, COE Individual Permit, DWQ 401 Certification and the FWS Special Use Permit for the Beach Habitat Restoration Project on Pea Island. These permits authorize the placement of 200,000 cubic yards of sand to be placed within a 1,500 ft. section of beach face, at the S-Curves location on Pea Island. These permits have specific conditions that dictate work time frames, sand mining requirements, and ongoing supervision from the FWS staff. The work must be carried at as shown on the provided work plat and described in the permits. Any deviation from this will require additional environmental review. It is important that conditions of these permit be read and understood prior to the initiation of work. Prior to any staging or work being done by the contractor a preconstruction meeting is required by the Regulatory Agencies. This should be coordinated with sufficient time to allow each agency to attend. If you have any questions about these permits or the plans, please let me know.

# S-Curves Beach Habitat Restoration Project Pea Island Refuge, Dare County 30



0 2.5 5 10 Miles

# CAMA MAJOR PERMIT



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

August 25, 2008

Jim Hoadley  
Division of Coastal Management  
367 U.S. 17 South  
Elizabeth City, NC 27909

Dear Mr. Hoadley,

NCDOT is requesting the issuance of a CAMA Major Permit for the placement of approximately 200,000 cubic yards of sand on the beach face at the Pea Island Refuge S-Curves location. This sand placement is being pursued in an effort to restore beach habitat as directed by the USFWS Special Use Permit # 2006-014 issued 12/11/2006. This permit was issued for the installation of 900 ft. of sandbags adjacent to NC 12 to increase protection from the roadway washing out during storm events. Along with the beach restoration habitat commitment, NCDOT also agreed to a monitoring program that involves pre and post sandbag installation monitoring of physical and biological elements of the beach face within the project area. This monitoring is done 4 times each year and will continue until the sandbags are no longer needed and removed.

The area of the Beach Habitat Restoration begins at the southern tip of the refuge property and continues north for a distance of 1500 ft., which includes the 900 ft. location of the sandbags. The beach profile was surveyed to establish a proposed cross-section with mean high and low water marks, showing the existing and proposed beach face. Based on the amount of available material and the existing profile it was determined that the beach restoration would extend from an approximate elevation of 5.5 ft. and extend seaward for a distance of approximately 85 ft., raising the beach face by 1 to 5 ft. Natural wave process will taper the slope below the mean low water line carrying material beyond the 85 ft. point to an assumed additional distance of 30 to 40 ft. This profile is depicted on the provided permit drawings at three different cross sections. At the north and southern ends of the 1500 ft. habitat restoration area the elevated beach face will be tapered to match the existing beach profile to create a transition. The sand will be placed on the beach by creating a breach in the existing dune and trucking the material onto the beach face. The sand will then be pushed to the proposed profile by bulldozers and frontend loaders. The location of the dune breach will be established through coordination with CAMA and the USFWS biologist. A location will be established based on minimal impact to vegetated dunes.

The sand source for the beach habitat restoration is located approximately 12 miles north at the groin location on the Pea Island Refuge and the adjacent state owned property where the Old Coast Guard Station is located. The proposed mining area behind the groin is approximately 13 acres in size and was recommended for use by the USFWS. This area was previously mined in the late 90's under supervision by the USFWS. The mining was conducted, so that shallow areas of excavation created pools that improved foraging habitat for shore birds using the area. These pools have filled in over the years and there is only one remnant pool area, which will not be impacted by the proposed project. The current project is proposing to accomplish the same result and will follow direction of the USFWS refuge staff during the excavation. The mining will not go beyond 6-8 feet below the surface and will only extend within the area shown on the provided location map. This area currently is located above the normal high water mark, it

consist of an open sand flat with no vegetation. This area can be accessed through the existing State Rd. 1257. Beyond the end of SR 1257 are established dunes that lie approximately 700-800 feet from the normal high water line. This area of dunes can be crossed by off-road dump trucks. Efforts to minimize impacts to vegetated areas will be conducted through the dune crossing. The adjacent state property is approximately 10 acres in size and will also be used to provide sand for the project. Sand will be removed from SR 1257 that leads into the state property. Sand removal from the roadway will stay within NCDOT R-O-W. Once sand is removed from the roadway and access is gained to the Old Coast Guard Station Property, excavation around the remnant parking areas of the Old Coast Guard Station will begin. Sand removal is proposed to be excavated down to the old pavement elevation. This varies in depth, but likely averages around 10-20 ft. Coordination with the state property owners will be conducted prior to any sand removal to establish a safe boundary around the Coast Guard building. Once the Old Coast Guard Station area is complete, then the area behind the groin will be accessed and sand mining will begin there.

NCDOT has conducted a sand analysis within the proposed mining areas and the receiving beach area. The sand was analyzed for grain size, percent calcium carbonate and heavy mineral content. This data is provided in the application. In order to prevent potential impacts to protected shorebirds and nesting sea turtles NCDOT will conduct the proposed work outside of applicable moratoriums and under supervision of the USFWS managing biologist.

Along with the CAMA Major permit NCDOT is also in the process of acquiring a COE, DWQ and USFWS Special Use Permit.

Included with this request are a location map, plan view, cross-sections and photographs showing the proposed work. If any additional information is needed please contact Clay Willis at 252-482-7977.

Sincerely,  
Jerry Jennings, P.E.  
Acting Division Engineer, Division One

Clay Willis   
Environmental Officer, Division One

CC: Bill Biddlecome, USACOE  
Garcy Ward, DWQ  
Travis Wilson, WRC  
Sarah Winslow, NCMFC  
Ron Sechler, NMFS  
Gary Jordan, USFWS  
Dennis Stuart, USFWS  
Rick Kanaski, USFWS  
Renee Gladhill-Early, NCHPO  
Chris Ivers, NCAquariums  
Gretchen Byrum, NCDOT  
Mary Pope-Furr, NCDOT  
Jerry Jennings, NCDOT



North Carolina Department of Environment and Natural Resources  
Division of Coastal Management

Beverly Eaves Perdue, Governor

James H. Gregson, Director

Dee Freeman, Secretary

April 29, 2009

N.C. Department of Transportation  
113 Airport Drive  
Edenton, NC 27932

Dear Sirs:

The enclosed permit constitutes authorization under the Coastal Area Management Act, and where applicable, the State Dredge and Fill Law, for you to proceed with your project proposal. The original (buff-colored form) is retained by you and it must be available on site when the project is inspected for compliance. Please sign both the original and the copy and return the copy to this office in the enclosed envelope. Signing the permit and proceeding means you have waived your right of appeal described below.

If you object to the permit or any of the conditions, you may request a hearing pursuant to NCGS 113A-121.1 or 113-229. Your petition for a hearing must be filed in accordance with NCGS Chapter 150B with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27611-6714, (919) 733-2698 within twenty (20) days of this decision on your permit. You should also be aware that if another qualified party submits a valid objection to the issuance of this permit within twenty (20) days, the matter must be resolved prior to work initiation. The Coastal Resources Commission makes the final decision on any appeal.

The project plan is subject to those conditions appearing on the permit form. Otherwise, all work must be carried out in accordance with your application. Modifications, time extensions, and future maintenance requires additional approval. Please read your permit carefully prior to starting work and review all project plans, as approved. If you are having the work done by a contractor, it would be to your benefit to be sure that he fully understands all permit requirements.

From time to time, Department personnel will visit the project site. To facilitate this review, we request that you complete and mail the enclosed Notice Card just prior to work initiation. However, if questions arise concerning permit conditions, environmental safeguards, or problem areas, you may contact Department personnel at any time for assistance. By working in accordance with the permit, you will be helping to protect our vitally important coastal resources.

Sincerely,

Douglas V. Huggett  
Major Permits and Consistency Manager

Enclosure

400 Commerce Avenue, Morehead City, N.C. 28557  
Phone: 252-808-2808 \ FAX: 252-247-3330 \ Internet: <http://dcm2.enr.state.nc.us>

An Equal Opportunity \ Affirmative Action Employer - 50% Recycled \ 10% Post Consumer Paper

Permit Class

NEW

(by CRC Variance)

35

Permit Number

32-09

STATE OF NORTH CAROLINA

Department of Environment and Natural Resources  
and  
Coastal Resources Commission

# Permit

for

Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 113 Airport Drive, Suite 100, Edenton, NC 27932

Authorizing development in Dare County at Atlantic Ocean, NC Highway 12, Pea  
Island National Wildlife Refuge, as requested in the permittee's application dated 8/27/08 (MP-1) and 8/25/08  
(MP-2), including the attached workplan drawings (2) dated 7/30/08 & attached AEC Hazard Notice dated 9/17/08.

This permit, issued on 4/29/09, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

### Beach Habitat Restoration

- 1) In order to protect sea turtle and shorebird populations, as well as finfish and invertebrates in the surf zone, no work shall be conducted on the beach or forward of the dunes during the sea turtle and piping plover nesting season from April 1<sup>st</sup> to November 15<sup>th</sup> of any year without prior approval from the N.C. Division of Coastal Management (DCM) in coordination with the U.S. Fish and Wildlife Service, the N.C. Wildlife Resources Commission and the N.C. Division of Marine Fisheries.
- 2) This permit authorizes beach habitat restoration activities to be carried out one (1) time along the project area. Any request to carry out additional activities within an area where beach habitat restoration activities have been completed will require a modification of this permit.

**(See attached sheets for Additional Conditions)**

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

**December 31, 2012**

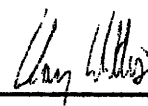
In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



James H. Gregson, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.



Signature of Permittee



**ADDITIONAL CONDITIONS**

- 3) Prior to the initiation of any beach habitat restoration activity above the normal high water contour (NHW) within the limits of the permittee's jurisdiction, easements or similar legal instruments shall be obtained from all impacted property owners.
- 4) Prior to the initiation of beach habitat restoration activity along each section of beach where material is to be placed below the existing mean high water line, the existing mean high water line shall be surveyed and a copy provided to the Division of Coastal Management.
- 5) During and after construction, a uniform gradual slope shall be maintained between the mean high water and mean low water elevation contours so as not to endanger the public or interfere with the public's use of the beach.
- 6) The north and south ends of the beach undergoing maintenance shall angle onto and blend with the existing adjacent beaches.
- 7) In accordance with commitments made by the permittee, the location(s) of the dune breach(es) created to truck fill material onto the beach face shall be established through coordination with DCM and USFWS.
- 8) Dune disturbance shall be kept to a minimum. Any alteration of existing dunes shall be coordinated with DCM and USFWS. All disturbed areas shall be restored and revegetated immediately following project completion in that specific area.
- 9) All work shall be accomplished in such a manner that damage to existing vegetation is minimized.
- 10) Once a section is complete, heavy equipment shall be removed or shifted to a new section and the area graded and dressed to final approved slopes.
- 11) Any proposal involving sand fence installation shall be submitted to DCM and USFWS for approval to ensure that such installation does not impede public access or emergency vehicles and does not endanger nesting sea turtles. Any derelict sand fencing shall be immediately removed from the beach.
- 12) Immediately after completion of beach habitat restoration activities, monitoring shall be conducted to determine if escarpments are present that would affect nesting sea turtles or public access. If such escarpments are present, the permittee shall coordinate with DCM and USFWS to determine if remedial actions are necessary.

**Borrow Area Excavation**

- 13) In accordance with commitments made by the permittee, coordination with the N.C. Aquariums shall be conducted to establish a safe boundary around the Old Coast Guard Station building during excavation of fill material.
- 14) In accordance with commitments made by the permittee, the excavation of the material at the borrow area shall be carried out so that shallow pools that improve shorebird foraging habitat are created. The location and design of these pools shall be done in coordination with, and to the approval of, the U.S. Fish and Wildlife Service.

## ADDITIONAL CONDITIONS

- 15) Should the excavation operations encounter sand deemed non-compatible with 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects), the permittee shall immediately cease operation and contact the NCDCM. Permitted activities shall resume only after resolution of the issue of sand compatibility.

General

**NOTE:** Areas covered under this CAMA Major Permit No. 32-09 are being studied through the NEPA/404 Merger Process as Transportation Improvement Program (TIP) projects and/or by the Outer Banks Task Force. The permittee is strongly encouraged to expedite efforts to develop and implement a long-term solution to the maintenance and protection of NC Highway 12 along Hatteras Island through these collaborative efforts.

- 16) No sand shall be placed on any sand bags that have been determined by the Division of Coastal Management to be subject to removal under 15A NCAC 07H .0308(a)(2). In order to ensure compliance with this condition, the Division of Coastal Management shall be contacted at 252-264-3901 prior to project initiation so that Division staff may meet on site with the permittee and/or contractor.

**NOTE:** The permittee is advised that the Division of Coastal Management shall regulate the removal of existing sandbags and the placement of new sandbags in accordance with 15A NCAC 07H .0308(a)(2)(F), or in accordance with any variances granted by the N.C. Coastal Resources Commission.

- 17) No attempt shall be made by the permittee to prevent the full and free use by the public of all public trust areas at or adjacent to the authorized work following project completion.
- 18) The permittee shall implement any and all project timing restrictions placed on the authorized project by the U.S. Army Corps of Engineers as part of the Federal permit process. Nothing in this State Permit shall be construed as overriding or superceding any such Federal permit requirement.
- 19) The permittee and/or his contractor shall provide for proper storage and handling of all oils, chemicals, etc., necessary to carry out the project.
- 20) Any changes in the approved plan may require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM at (252) 264-3901 prior to commencement of any such activity for this determination and any permit modification.
- 21) The permittee and/or his contractor shall contact the DCM Transportation Field Representative in Elizabeth City to request a preconstruction conference prior to project initiation.
- 22) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required, including any required for the proposed borrow areas.
- 23) Nothing in this permit authorizes any activity that has not received approval from the U.S. Fish and Wildlife Service (USFWS) for work within the Pea Island National Wildlife Refuge. The proposed work shall not commence until the permittee has been issued a Special Use Permit from the USFWS, and a copy of the Special Use Permit is received by DCM.

**ADDITIONAL CONDITIONS**

**NOTE:** The USFWS issued Special Use Permit Number 2008-020 on 10/15/08 for this project.

24) The N.C. Division of Water Quality (DWQ) authorized the proposed project on 10/24/08 (DWQ Project No. 20081371) under Water Quality Certification No. 3762. Any violation of the Certification approved by DWQ shall be considered a violation of this CAMA permit.

**NOTE:** The U.S. Army Corps of Engineers is reviewing this project as an Individual Permit (Action ID No. SAW-2008-02722).

**NOTE:** The permittee should make every effort possible to minimize any negative impacts of trucks and construction equipment on roadway traffic. The permittee shall also ensure that the ability of individuals to access and enjoy the beach is not impeded outside of the construction limits.

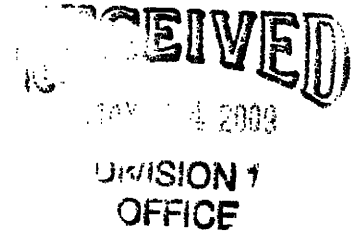
**NOTE:** The area where the placement of beach fill is proposed includes an area where the installation of approximately 900 linear feet of sandbags was authorized by CAMA General Permit 07H .1700 on 2/13/07. The applicant is pursuing this beach fill project in an effort to restore beach habitat as directed by the USFWS Special Use Permit #2006-014 that was issued on 12/11/06 for the installation of these same sandbags.

**COE PERMIT**



REPLY TO  
ATTENTION OF:

40  
DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS  
69 DARLINGTON AVENUE  
WILMINGTON, NORTH CAROLINA 28403-1343



May 13, 2009

Regulatory Division

Action ID SAW-2008-02722/NC 12 on Pea Island National Wildlife Refuge

Mr. Jerry Jennings, P.E. Division of Engineer  
N.C. Department of Transportation  
113 Airport Drive, Suite 100  
Edenton, North Carolina 27932

Dear Mr. Jennings:

Enclosed is a Department of the Army permit to discharge approximately 200,000 cubic yards of fill material (sand) into U.S. Army Corps of Engineers jurisdictional waters (Atlantic Ocean) for the nourishment (beach restoration) of approximately 1500 linear feet of beach face located adjacent to the S-Curves along NC Highway 12 on Pea Island National Wildlife Refuge, Dare County, North Carolina.

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.

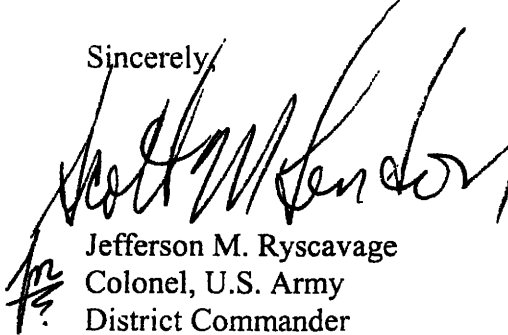
Carefully read your permit. The general and special conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant conditions require that:

- 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 Bill Biddlecome at the Washington Regulatory Field Office, telephone (252) 975-1616 extension 26.

Sincerely,



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

RECEIVED

MAY 11 2009

DEPARTMENT OF THE ARMY PERMIT

Permittee **North Carolina Department of Transportation, Mr. Jerry Jennings**

Permit No. **SAW 2008-02722**

Issuing Office **CESAW-RG-W**

REGULATORY  
WILM.FLD.OFC.

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 project involves the nourishment (beach restoration) of approximately 1,500 linear feet of beach face. The project would place approximately 200,000 cubic yards of fill material (sand) into jurisdictional waters (Atlantic Ocean) of the United States.

Project Location: This project is located adjacent to the S-Curves along NC Highway 12 on the Pea Island National Wildlife Refuge just north of Rodanthe, adjacent to the Atlantic Ocean, Dare County, North Carolina.

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.

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:
  - ( X ) 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.

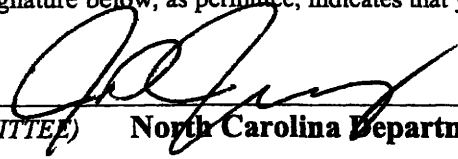
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

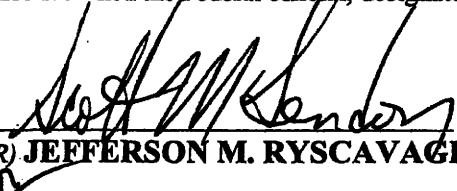
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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.

  
\_\_\_\_\_  
(PERMITEE) North Carolina Department of Transportation, 5/7/09  
(DATE)

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

  
\_\_\_\_\_  
(DISTRICT ENGINEER) JEFFERSON M. RYSCAVAGE, COLONEL 12 May 2009  
(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.

\_\_\_\_\_  
(TRANSFEEE) (DATE)

**SPECIAL CONDITIONS (Action ID. SAW-2008-02722); NCDOT****COMPLIANCE WITH PLANS**

a) 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**

b) 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**

c) 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 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.

d) 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**

e) 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**

f) 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.

g) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal, relocation, or alteration. The permittee shall notify NOAA/NATIONAL OCEAN SERVICE Chief Source Data Unit Attention: Sharon Tear N CS261, 1315 E West HWY- RM 7316, Silver Spring, MD 20910-3282 at least two weeks prior to beginning work and upon completion of work.

h) This Department of the Army permit does not obviate the need to obtain other Federal, State or local authorizations required by law.

#### CLEAN FILL MATERIAL

i) 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.

#### WORK MORATORIUM

j) A construction work moratorium for piping plover and sea turtles will be in effect from April 1 through November 15 of any year. No work shall take place on the project within these time frames.

#### CONTRACTOR COMPLIANCE

k) 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

l) 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).

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

m) 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 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**

n) 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**

o) 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 methodology or construction timeframe. The permittee shall schedule the preconstruction 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**

p) 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 b). All information will be available to the Corps of Engineers upon request.

q) No nourishment material will be obtained from areas outside of the designated borrow site as identified in the project plans and details and all borrow work will follow the direction and supervision of USFWS refuge staff during excavation.

# DWQ 401 CERTIFICATION



October 24, 2008

Mr. Clay Willis, Division Environmental Officer, NCDOT, Division I  
113 Airport Road  
Edenton, NC 27932

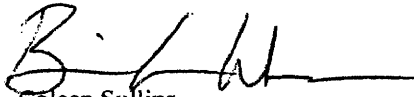
Subject: 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with  
ADDITIONAL CONDITIONS for the proposed beach habitat restoration (sand replenishment) project  
along NC 12 north of Rodanthe in the Pea Island National Wildlife in Dare County. Work is to be  
performed in conjunction with USFWS Special Use Permit No. 2006-014.  
DWQ Project No. 20081371  
WQC003762

Dear Mr. Willis:

Attached hereto is a copy of Certification No. 003762 issued to The North Carolina Department of Transportation dated October 24, 2008.

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

Sincerely,

  
Coleen Sullins  
Director

Attachments

cc: Bill Biddlecome, US Army Corps of Engineers, Washington Field Office  
Kathy Matthews, Environmental Protection Agency  
Mike Bryant, National Park Service  
Travis Wilson, NC Wildlife Resources Commission  
Gary Jordan, US Fish and Wildlife Service  
Cathy Brittingham, Division of Coastal Management  
Gary Ward, DWQ Washington Regional Office  
File Copy



## 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 (DWQ) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 2.92 acres of sand beach in Dare County. The project shall be constructed pursuant to the application dated received September 8, 2008. The authorized impacts are as described below:

- Replenish an area of approximately 1,500 feet by 85 feet (2.92 acres) of beachfront with an estimated 200,000 cubic yards of sand.

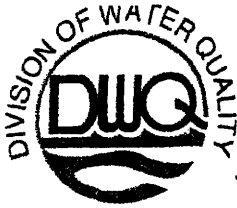
The application provides adequate assurance that the discharge of fill material onto the beach face will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions 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 September 8, 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 impacts for this project (now or in the future) are required the applicant should contact the DWQ as a modification to this permit or new 401 water Quality Certification may be required. 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 fill material for the project shall only be obtained from the areas identified in the permit application. All fill material shall be clean and free of obvious contaminants (solid or otherwise).
2. Any planned fill material which becomes contaminated during the mining or transportation process (i.e. with fuel, oils, greases, etc.) shall no longer be used as fill material and should be disposed of appropriately.
3. The maintenance and repair of equipment shall not occur in areas where fill material is to be obtained, and should be sufficient distance from planned mining areas as to not potentially contaminate fill material.
4. The permittee will need to adhere to all appropriate in-water work prescribed by the NC Wildlife Resources Commission, the US Fish and Wildlife Service, and National Marine Fisheries Service. Due to the potential for the project area to be used for sea turtle and piping plover nesting, no work on the beach face is permitted between April 1 and November 15 of any year, without prior approval from the NC Division of Water Quality and the U.S. Fish and Wildlife Service.
5. Access to the replenishment area shall be coordinated with the DCM and the USFWS and shall be located at their discretion so as to minimize impacts to vegetated dunes.



6. No work shall be performed landward of the toe of the dunes. The dunes, except at the designated access point, shall not be disturbed.

#### General Conditions

7. 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.
8. 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.
9. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.
- \*10. 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.

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.

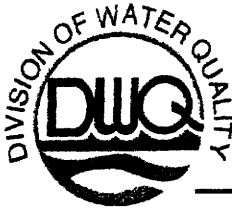
This the 24th day of October 2008

DIVISION OF WATER QUALITY

Coleen Sullins  
Director

WQC No. 003762





DWQ Project No.: \_\_\_\_\_ County: \_\_\_\_\_

Applicant: \_\_\_\_\_

Project Name: \_\_\_\_\_

Date of Issuance of 401 Water Quality Certification: \_\_\_\_\_

### \*Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401/Wetlands Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to DWQ by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

#### **Applicant's Certification**

I, \_\_\_\_\_, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### **Agent's Certification**

I, \_\_\_\_\_, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### **If this project was designed by a Certified Professional**

I, \_\_\_\_\_, as a duly registered Professional \_\_\_\_\_ (i.e., Engineer, Landscape Architect, Surveyor, etc.) in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project, for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature \_\_\_\_\_ Registration No. \_\_\_\_\_

Date \_\_\_\_\_

**US FISH AND WILDLIFE  
SPECIAL USE PERMIT**

United States Department of the Interior  
U.S. Fish and Wildlife Service  
Special Use Application and Permit

2. Application Date 2008-020

3. Period of Use Applying for:

1. Pea Island National Wildlife Refuge From: October 15, 2008 To: March 31, 2010

4. Applicant Information:

Name: Jerry Jennings Phone: (252) 482-7787  
Organization: N. C. Department of Transportation Fax:  
Address: 113 Airport Drive email  
City/State/ZIP: Edenton, NC 27932

5. Purpose of the Permit Application:

- Agriculture  Commercial Visitor Services  Other (describe)
- Commercial Activities  Commercial Filming
- Research/Monitoring  Special Event

Mitigation for impacts from highway project.

6. Describe the above activity as specifically as you can.

Include: Where the activity will take place (units, roads, trails); When (seasons, days, hours); How (methods, techniques, transportation); Frequency (one time only, daily, occasionally); Number of people/vehicles/boats; Special Needs/access  
Researchers may be required to supply a research proposal.

This action constitutes an extension of the expiration date for Special Use Permit 2008-020. All project descriptions, terms, and conditions of Special Use Permit 2008-020 remain in effect as described in the original permit unless otherwise modified by the Refuge Manager or his designee.

7. Print Form 8. Applicant Signature: [Signature] Date: 6/26/09

Print this form and return it to the refuge for processing. Do not fill out any information below this line.

For Official Use Only Application approved:  yes  no  
Special Conditions: All conditions as described in Special Use Permit 2008-020 remain in effect unless otherwise modified in writing by the Refuge Manager or his designee. Station Number: 41630 Permit Number: 2008-020  
Record of Payments:  Payment exempt  Partial payment  Full payment  
Amount of payment: \$0 Record of partial payments: N/A  
This permit is issued by the U.S. Fish and Wildlife Service and accepted by the above signed, subject to the terms, covenants, obligations, and reservations, expressed or implied herein, and to the notice, conditions, and requirements appearing on the reverse side.  
Permit Approved and Issued By: [Signature] Date: 6/24/09

In accordance with the Privacy Act (5 U.S. C. 552a) and the Paperwork Reduction Act (44 U.S. C. 3501), please note the following information:

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act (16 U.S. C. 668dd-ee) as amended, and the Refuge Recreation Act (16 U.S. C. 460k-460k-4).
2. The information that you provide is voluntary; however submission of requested information is required to evaluate the qualifications, determine eligibility, and document permit applicants under the above Acts. It is our policy not to use your name for any other purpose. The information is maintained in accordance with the Privacy Act. All information you provide will be considered in reviewing this application. False, fictitious, or fraudulent statements or representations made in the application may be grounds for revocation of the Special Use Permit and may be punishable by fine or imprisonment (18 U.S.C. 1001). Failure to provide all required information is sufficient cause for the U.S. Fish and Wildlife Service to deny a permit. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.
3. No members of Congress or Resident Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.
4. The Permittee agrees to be bound by the equal opportunity "nondiscrimination in employment" clause of Executive Order 11246.
5. Routine use disclosures may also be made: (a) to the U.S. Department of Justice when related to litigation or anticipated litigation; (b) of information indicating a violation or potential violation of a statute, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order, or license; (c) from the record of the individual in response to an inquiry from a Congressional office made at the request of the individual (42 FR 19083; April 11, 1977); and (d) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal Claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48 FR 54716; December 6, 1983).
6. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. This information collection has been approved by OMB and assigned control number 1018-0102. The public reporting burden for this information collection varies based on the specific refuge use being requested. The relevant public reporting burden estimate for the Special Use Permit Application form is estimated to average one hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Comments on this form should be mailed to the Information Collection Clearance Officer, Mail Stop 222, Arlington Square, U.S. Fish and Wildlife Service, Arlington, Virginia, 22203. Thank you.

#### **General Conditions and Requirements.**

1. **Responsibility of Permittee:** The permittee, by operating on the premises, shall be considered to have accepted these premises with all facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, and/or the part of anyone of his/her associates, to use reasonable care.
2. **Operating Rules and Laws:** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing national wildlife refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge official in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.
3. **Use Limitations:** The permittee's use of the described premises is limited to the purposes herein specified and does not, unless provided for in this permit, allow him/her to restrict other authorized entry onto his/her area; and permits the Service to carry on whatever activities are necessary for: (1) protection and maintenance of the premises and adjacent lands administered by the Service; and (2) the management of wildlife and fish using the premises and other Service lands.
4. **Transfer of Privileges:** This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the Service and the permit shall not be used for speculative purposes.
5. **Compliance:** The Service's failure to require strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms or conditions.
6. **Conditions of Permit not Fulfilled:** If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.
7. **Payments:** All payment shall be made on or before the due date to the local representative of the Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.

8. **Termination Policy:** At the termination of this permit the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 11. If he/she fails to do so, he/she will pay the government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 11. The acceptance of any fee for the liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittee's action nor shall it operate as a waiver of the Government's right to terminate or cancel the permit for the breach of any specified condition or requirement.
9. **Revocation Policy:** This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing national wildlife refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, and/or may enter and possess the premises as the agent of the permittee and for his/her account.
10. **Damages:** The United States shall not be responsible for any loss or damage to property including, but not limited to, growing crops, animals, and machinery or injury to the permittee or his/her relatives, or to the officers, agents, employees, or any other who are on the premises from instructions or by the sufferance of wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise to be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.
11. **Removal of Permittee's Property:** Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the refuge official in charge, but not to exceed 60 days, remove all structures, machinery, and/or equipment, etc. from the premises for which he/she is responsible. Within this period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.
12. **Collected Specimens:** You may use specimens collected under this permit, any components of any specimens (including natural organisms, enzymes, genetic materials or seeds), and research results derived from collected specimens for scientific or educational purposes only, and not for commercial purposes unless you have entered into a Cooperative Research and Development Agreement (CRADA) with us. We prohibit the sale of collected research specimens or other transfers to third parties. Breach of any of the terms of this permit will be grounds for revocation of this permit and denial of future permits. Furthermore, if you sell or otherwise transfer collected specimens of any components without a CRADA, you will pay us a royalty rate of 20 percent of the gross revenue from such sales. In addition to such royalty, we may seek other damages and injunctive relief against you.

#### **Instructions for Completing Application:**

You may complete the application portion electronically and submit to the refuge for review.

1. Enter the name of the refuge at which you are applying for a permit.
2. Under Application Date, fill in the date of application.
3. Under Period of Use, fill in the date(s) for which the activity is requested (inclusive)
4. Under Applicant Information, fill in your name, organization (if applicable), address, phone, fax, and email.
5. Under Purpose, check one of the following categories:
  - a. Agriculture - haying, grazing, crop planting, logging, beekeeping, and other agricultural products.
  - b. Commercial activities - commercial fishing, trapping, and other commercial activities.
  - c. Research/Monitoring - any investigations or monitoring projects proposed for the refuge.
  - d. Commercial filming - audio, video, and photographic products with a monetary value.
  - e. Commercial visitor services - outfitters/guides; for hunting, fishing, canoeing, kayaking; and other visitor services.
  - f. Special Events - weddings, fishing tournaments, one-time events, and other special events.
  - g. Other - specify any other activity(ies) not mentioned above.
6. Under Describe the Above Activity, provide detailed information on the activity, including locations, times, methods, routes of travel, number of people, types and number of vehicles, etc. If you are proposing a research project, you may be asked to submit a research proposal. Contact the refuge for details.
7. Click on the Print button to print the application (if using the fillable version).
8. Under Applicant Signature and Date, sign and date the application, then submit to the refuge per their instructions (fax, mail, in-person)
9. The refuge official will review and, if approved, fill out the remaining information, sign, and return a copy to you.

**The form is not valid as a permit unless it includes refuge approval, a station number, a refuge-assigned permit number, and is signed by a refuge official.**



UNITED STATES DEPARTMENT OF THE INTERIOR  
FISH AND WILDLIFE SERVICE

Pea Island National Wildlife Refuge

SPECIAL USE PERMIT

Station No. to be Credited	Permit Number
41630	2008-020
Date	
10-15-2008	
Period of Use (inclusive)	
From	October 15, 2008
To	March 1, 2009

Permittee Name  
 Jerry Jennings  
 (252) 482-7977

Permittee Address  
 NCDOT  
 113 Airport Drive  
 Edenton, NC 27932

Purpose (specify in detail privilege requested, or units of products involved)  
 In fulfillment of Requirement 7 on the sheet entitled "SPECIAL CONDITIONS FOR SANDBAG INSTALLATION FOR THE PROTECTION OF N. C. HIGHWAY 12" and attached to Special Use Permit # 2006-014, the N. C. Department of Transportation (NCDOT) is planning to place approximately 200,000 cubic yards of sand on the beach face east of the sandbag section of an area known locally as the S-Curves Hotspot. Sand will be removed from the Old Coast Guard Station road bed and will be mined from the fillet behind the terminal groin. Sand will be hauled by dump truck and will be placed on the beach using front-end loaders. Shaping will be done by tracked excavators and bulldozers. The NCDOT established a monitoring program to evaluate the impacts from the beach habitat restoration work.

Description (specify unit numbers; metes and bounds, or other recognizable designations)  
 Pea Island National Wildlife Refuge, Dare County, North Carolina

Amount of fee \$ 0.00 if not a fixed payment, specify rate and unit of charge:  
 Payment Exempt -Justification: Project is necessary to mitigate impacts from maintaining a safe transportation facility  
 Full Payment  
 Partial Payment -Balance of payments to be made as follows:

Record of Payments  
 N/A

- Special Conditions
1. See the attached permit (SUP # 2006-014). All conditions attached to that permit remain in effect and are hereby transferred to this permit through reference.
  2. This permit may become nullified upon signature of the Record of Decision pursuant to the Final Environmental Impact Statement for the Bonner Bridge replacement project (TIP B-2500). The Refuge Manager will notify NCDOT in the event that the permit should become null and void.
  3. All work shall be done to the satisfaction of the Refuge Manager.
  4. Permittee is required to request a site inspection by the Refuge Manager or designee before removing equipment from the project area.

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the undersigned, subject to the terms, covenants, obligations, and reservations, expressed or implied herein, and to the conditions and requirements appearing on the reverse side.

Permittee Signature  
 Jerry Jennings, NCDOT

Issuing Officer Signature and Title  
 Mike Bryant, Refuge Manager

55  
General Conditions

**1. Payments**

All payments shall be made on or before the due date to the local representative of the U.S. Fish and Wildlife Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.

**2. Use limitations**

The permittee's use of the described premises is limited to the purposes herein specified; does not unless provided for in this permit allow him/her to restrict other authorized entry on to his/her area; and permits to the Service to carry on whatever activities are necessary for (1) protection and maintenance of the premises and adjacent lands administered by the Service and (2) the management of wildlife and fish using the premises and other

**3. Damages**

The United States shall not be responsible for any loss or damages to property including but not limited to growing crops, animals, and machinery; or injury to the permittee, or his/her relatives, or to the officers, agents, employees, or any others who are on the premises from instructions or by the sufferance of the permittee or his/her associates; or for damages or interference caused by wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise or be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.

**4. Operating Rules and Laws**

The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing National Wildlife Refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge officer in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.

**5. Responsibility of Permittee**

The permittee, by operating on the premises, shall be considered to have accepted these premises with all the facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, or the part of anyone of his/her associates, to use reasonable care.

**6. Revocation Policy**

This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing National Wildlife Refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, or may enter and possess the premises as the agent of the permittee and for his/her account.

**7. Compliance**

Failure of the Service to insist upon a strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms, conditions, or requirements.

**8. Termination Policy**

At the termination of this permit, the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 9. If he/she fails to do so, he/she will pay the Government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed the reenter as needed to remove his/her property as stated in paragraph 9. The acceptance of any fee for liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittees action nor shall it operate as a waiver of the Government's rights to terminate or cancel the permit for the breach of any specified condition or requirement.

**9. Removal of Permittee's Property**

Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may within a reasonable period as stated in the permit or as determined by the refuge officer in charge but not to exceed 60 days, remove all structures, machinery, and/or other equipment, etc., from the premises for which he/she is responsible. Within the period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.

**10. Transfer of Privileges**

This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue though lien or be transferred to a third party without the approval of the Regional Director of the U.S. Fish and Wildlife Service and the permit shall not be used for speculative purposes.

**11. Conditions of Permit not Fulfilled**

If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.

**12. Official Barred from Participating**

No Member of Congress or Residential Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.

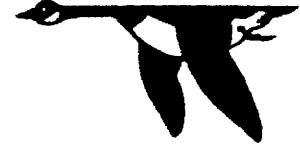
**13. Nondiscrimination in Employment**

The permittee agrees to be bound by the equal opportunity clause of Executive Order 11246, as amended.

**Privacy Act Statement--Special Use Permit**

**NOTICE: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, please be advised that:**

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd - 668ee), and the Refuge Recreation Act, (16 U.S.C. 460k-3); implemented by regulations in 50 CFR 25-36.
2. Information collected in issuing a permit may be used to evaluate and conclude the eligibility of, or merely document, permit applicants.
3. Routine use disclosures may also be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of the individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48FR 54716; December 6, 1983).
4. Any information requested is required to receive this permit. Failure to answer questions may jeopardize the eligibility of individuals to receive permits.



Alligator River National Wildlife Refuge  
Pea Island National Wildlife Refuge

**CONDITIONS FOR SPECIAL USE PERMITS & AUTHORIZED ACTIVITIES**

1. The Permittee or authorized person, and all officers, agents, employees, representatives, and clients of the Permittee or authorized person, shall comply with all Refuge, Federal, State, and local regulations and conditions that apply to the special use activity. Failure to comply with any applicable regulation or condition, and all Federal laws, rules, and regulations governing National Wildlife Refuges and the area described in the Special Use Permit (Permit) or authorizing documents may result in revocation of the Permit or authorized activity and/or criminal prosecution.
2. While engaged in a special use activity on the Refuge, the Permittee or authorized person, and his/her officers, agents, employees, or representatives, shall be in possession of a copy of the Permit or authorizing documents (including all attachments that contain conditions) and shall, upon request by an authorized Refuge official or by any authorized local, state, or federal law enforcement officer, display the copy authorizing their presence and activity on the Refuge and shall furnish any other licenses and identification documents as may be requested.
3. Entry on the Refuge during nighttime hours (i.e., ½-hour after sunset to ½-hour before sunrise) is prohibited, **unless authorized in writing by the Refuge Manager.**
4. It is unlawful to disturb, destroy, injure, collect, or take any wildlife, plant, natural object, mineral, cultural or historical feature, or public property on the Refuge, **unless authorized in writing by the Refuge Manager.**
5. Wildlife shall not be harmed or harassed and disturbance shall be kept to a minimum, this includes all snakes (poisonous and non-poisonous snakes), **unless authorized in writing by the Refuge Manager.**
6. The Refuge Manager should be contacted **immediately** at **(252) 473-1131** upon discovery of any **wildfire**, or any leak, spill, or break in a pipeline, power line, canal, or dike, or any other accident or incident that has the potential to have an adverse impact on the soil, wildlife, or plants in the area. Any unusual wildlife sightings or suspected illegal activities should be reported to the Refuge Manager.
7. Any accident that results in a personal injury (**i.e., an accident that requires professional medical treatment**) shall be reported to the Refuge Manager within 24 hours of the accident.
8. All **locked** Refuge gates shall be closed and locked upon entering and leaving Refuge property. Refuge gates should be left the way they are found (i.e., open, closed, either locked or unlocked as the case may be).



9. Vehicle travel shall only be on designated roads or routes of travel, **unless authorized in writing by the Refuge Manager**. Vehicles, boats, trailers, and other equipment shall be parked in such a manner that **roads and trails, including canoe trails and navigable waters, are not to be blocked**. Roads and trails need to be accessible to other Refuge visitors and to Refuge staff, cooperative farmers, fire trucks, emergency vehicles, maintenance equipment, and law enforcement patrols.
10. Vehicles with catalytic converters shall be restricted to paved roads, recently maintained gravel or dirt roads, or bare soil areas because of the high fire potential. Vehicles with catalytic converters shall not be parked over high vegetation or other fire hazardous materials.
11. Refuge gate or building keys **shall not be loaned** to other agencies, companies, or persons. If there is a need for access by other persons, please have them contact the Refuge Manager. All Refuge keys shall be returned to the Refuge Manager, or a designated staff member, within 10 calendar days, after expiration or termination of the Permit or authorized activity.
12. All dogs (or any other pet) must be confined or on a leash while on the Refuge, **unless authorized in writing by the Refuge Manager**. Leashed pets must be under the immediate control of the Permittee or authorized person, or the leash must be secured to a stationary object. The leash shall not be in excess of 10 feet in length.
13. Possession or use of firearms, air guns, bows and arrows, cross bows, spears, or gigs; or illegal knives, weapons, or devices; or explosives of any type is prohibited on the Refuge when engaged in a special use activity, **unless authorized in writing by the Refuge Manager**.
14. Littering is prohibited. **All** materials brought into the Refuge shall be removed and properly disposed. Drink cans, bottles, candy wrappers, toilet paper, and other garbage and refuse shall not be left on the Refuge.
15. The Refuge Manager shall be contacted **before** any surface work is done. This includes mowing, road or trail improvements, digging, clearing or trimming of brush or vegetation, installation of structures, etc.
16. The use of herbicides and pesticides on Refuge property is prohibited, **unless authorized in writing by the Refuge Manager**. Unrestricted, over-the-counter-type, insect repellents may be used on or near the body and clothing to repel biting or stinging insects.
17. No permanent or semi-permanent markings shall be made on any Refuge building, structure, gate, post, sign, fence, tree, vegetation, or soil by either marking, painting, cutting, scratching, blazing, mowing, digging, or other destructive method, **unless authorized in writing by the Refuge Manager**. When needed, only temporary, removable markers (e.g., flagging tape, survey stakes, metal/paper/plastic tags, etc.) shall be used to mark site locations, plots, etc. Safety signs, informational signs, and any other signs required by law or regulation for the special use activity being

conducted, shall be posted as required, **but only with prior authorization by the Refuge Manager.** All markers and signs shall be removed upon conclusion of the special use activity or upon expiration or termination of the Permit.

18. The use or possession of traps, snares, or other passive (i.e., unattended) collection devices, which are used to collect wildlife, is prohibited, **unless authorized in writing by the Refuge Manager.** Each individual trap, snare, or passive collection device shall have a weather-resistant, permanent tag attached with the Permittee's, authorized person's, and/or organization's name legibly marked on the tag or shall have the Permittee's, authorized person's, and/or organization's name legibly marked, imprinted, or engraved on the trap, snare, or device.
19. You may use specimens collected under this permit, any components of any specimens (including natural organisms, enzymes, genetic materials or seeds), and research results derived from collected specimens for scientific or educational purposes only, and not for commercial purposes unless you have entered into a Cooperative Research and Development Agreement (CRADA) with us. We prohibit the sale of collected research specimens or other transfers to third parties. Breach of any of the terms of this permit will be grounds for revocation of this permit and denial of future permits. Furthermore, if you sell or otherwise transfer collected specimens, any components thereof, or any products or research results developed from such specimens or their components without a CRADA, you will pay us a royalty rate of 20 percent of gross revenue from such sales. In addition to such royalty, we may seek other damages and injunctive relief against you.
20. No permanent or semi-permanent fences, buildings, shelters, docks, piers, or other structures or facilities may be erected, built, or placed on the Refuge, **unless authorized in writing by the Refuge Manager.** No machinery, equipment, supplies, or materials may be placed or stored on the refuge, **unless authorized in writing by the Refuge Manager.**
21. All open fires are prohibited, **unless authorized in writing by the Refuge Manager.** Leaving an **authorized** open fire unattended or not completely extinguished is prohibited. Setting on fire or causing to be set on fire any timber, brush, grass, or other inflammable material, including camp or cooking fires, is prohibited, **unless authorized in writing by the Refuge Manager.** The use of cutting torches, arc welders, or any other open flame/sparking devices (which are required to conduct the special use activity) shall be exercised with caution and **only with prior authorization from the Refuge Manager or Refuge Fire Management Officer.** When use of these devices is necessary, the operator(s) shall have **immediate access to appropriate fire control equipment** (e.g., fire extinguishers, shovels, etc.) and **immediate communication access to local emergency services** (e.g., cellular telephone, two-way radio, etc.). Tobacco smokers shall practice caution when smoking; shall completely extinguish all matches, cigars, cigarettes, and pipes; and shall dispose of same in a proper container (e.g., a vehicle ash tray).

Sand Fence Specifications and Conditions

Pea Island National Wildlife Refuge - Special Use Permit PINWR -2006-014

1. Sand fencing will consist of 10-foot sections, supported by a minimum of 2 posts, and placed perpendicular to the prevailing wind at 7-foot intervals as illustrated in the attached copy of the brochure entitled "Building Back the Dunes". Sand fencing will be made of biodegradable materials and untreated wooden posts, 2"X4" or larger, that are set at least 4 feet in the ground. In order to blend with the natural surroundings, sand fencing will be either unpainted or stained wood or other biodegradable material and will be in a neutral, beige, brown, tan, dark green, or natural wood color.
2. The Refuge Manager or designee must approve final location and alignment of sand fencing prior to installation. The Refuge Manager or designee will be made available to assist the Permittee in marking and/or locating the proper placement of the sand fencing.
3. The Permittee agrees, for the life of the sand fencing and posts, to accept all responsibility for maintenance or removal and disposal of any sand fencing and posts installed by the Permittee, including damaged or displaced sand fencing and posts, that are determined by the Refuge Manager to be hazardous to public safety or to wildlife resources in the area. The Refuge Manager will make this determination after consultation with U. S. Fish & Wildlife Service engineers, safety officers, or wildlife biologists. The Permittee will remove sections of hazardous or non-functional sand fencing and posts and properly dispose of the same within 30 days of receipt of official notice from the Refuge Manager.

*Anthony [Signature]*  
 Permittee Signature

1-12-07  
 Date

*Mike Bryant PL*  
 Issuing Officer Signature and Title

1-12-2007  
 Date

*Grass Sprigging Specifications and Conditions*

**Pea Island National Wildlife Refuge - Special Use Permit 2006-014**

1. Mechanical manipulation of soils for incorporation of fertilizer or sprigging of grasses will only be allowed depending upon site-specific conditions. The Refuge Manager reserves the right to provide final authorization to allow mechanical manipulation of soils at the time of planting (i.e. location and alignment).
2. Any fertilizers applied shall not contain any integrated pesticides (i.e. herbicide, insecticides, or fungicides) or other chemicals regulated by State or Federal law without separate approval by the Refuge Manager. Pelletized fertilizers shall be incorporated into the soil.
3. Sprigging shall be done by hand or by a method that will not disturb or destroy existing vegetation.
4. Vehicles or equipment shall not be operated on the ocean side of the dune for any purpose unless approved by the Refuge Manager. Requests for departures from this condition will be considered on a case-by-case basis.
5. The Refuge Manager must approve any changes in the grass species (i.e. species composition or percentage) proposed by sprigging specifications prior to planting.

Anthony Papan (by Clay W. H.)  
 Permittee Signature

1/12/07  
 Date

Mike Bryant P.L.  
 Issuing Officer Signature & Title

1-12-2007  
 Date

**SPECIAL CONDITIONS FOR SANDBAG INSTALLATION FOR THE PROTECTION  
OF N. C. HIGHWAY 12**

**Pea Island National Wildlife Refuge  
Attachment to Special Use Permit 2006-014**

- \* 1. Special Use Permit # 2006-014 is issued for the expressed and sole purpose of installing sandbags within the N. C. Highway 12 (NC 12) right-of-way as a temporary measure to protect the highway pavement from the impacts of ocean over-wash during minor storm events and spring tide events in an area known locally as the "Rodanthe S-Curves".
- \* 2. This permit is valid for one year from the date of issuance. The permit may be renewed on an annual basis for up to 60 months (5 years) from the date of issue provided that the North Carolina Department of Transportation (NCDOT) is actively planning, developing, and implementing a long-term solution to problems associated with maintaining NC 12 immediately adjacent to the Atlantic Ocean in the vicinity of the "Rodanthe S-Curves Hotspot".
3. It shall be the responsibility of the NCDOT to request renewal of this permit on an annual basis. The renewal request shall be submitted to the Refuge Manager no less than 30 days prior to the expiration date of Special Use Permit # 2006-014.
4. This permit does not authorize any activity other than the use of refuge lands for the expressed purposes stated in SUP# 2006-014. It is the permittee's responsibility to obtain any and all other necessary local, state, or federal approvals prior to commencing work activities. All other permits, approvals, or agreements, written or verbal whether from individuals or local, state, or government agencies or other entities shall not in any way interfere with implementation of the terms and provisions of SUP # 2006-014.
- \* 5. Sandbags shall be removed without delay or challenge within 60 days of completing a satisfactory alternative for the highway or when they are no longer serving the purpose for which they were established as a result of natural forces or due to human actions.
- \* 6. Sandbags shall be filled and installed prior to May 1. In the event of bird or turtle nesting activity within or adjacent to the project area prior to May 1, construction and associated activities shall be either suspended or moved a sufficient distance from the biological activity so as to avoid direct and indirect impacts. If the project is not completed by or before May 1, work may resume after September 1. Any type of encroachment into this time period wherein work activities would be required on the dune or on the ocean side of the dune shall be done with full coordination and at the discretion of the Refuge Manager.
7. The permittee agrees to prepare a beach/dune restoration plan. Beach/dune restoration is needed to augment the installed sandbags that are protecting the highway pavement from the effects of ocean over-wash during minor storm events and spring tide events. The beach/dune restoration plan will encompass but is not limited to the following goals:

- a. Through appropriate beach/dune restoration techniques, the upper beach/dune shall be restored to a mutually agreed upon extent. This is intended to be a one-time action and maintaining upper beach in perpetuity is neither the intent nor a condition of this permit. Any subsequent beach/dune restoration actions necessary to maintain the integrity of the sandbag structure shall be fully coordinated with the Refuge Manager prior to any construction/restoration activity.
- \* b. Through prudent sand placement, sandbags shall be covered by suitable sand, as determined by the Refuge Manager, in accordance with NCDOT specifications as stated in the application for this permit. This measure shall be repeated in the event of removal of the sand cover over the sandbags through the action of wind or water. The intent is to provide the most productive barrier dune habitat possible through covering the sandbags with suitable sand and through incorporation of suitable dune stabilization measures.
- c. The beach/dune restoration plan shall include a monitoring program of sufficient detail so as to document baseline (pre-sandbag and pre-beach/dune restoration) physical and biological parameters of the beach face community in and adjacent to the affected area, impacts to that community as determined immediately after construction, and seasonal (4 times per year) monitoring for as long as the sandbags are in place plus for a minimum of one full year after removal of the sandbags. For comparative purposes, a control area, as agreed upon by the Refuge Manager and NCDOT, will be monitored in the vicinity of the project area.
- d. The NCDOT or their designee shall provide the refuge with copies of raw data after each sampling session in an EXCEL data format.

The beach/dune restoration plan and monitoring protocols shall be developed through coordination with the Refuge Biologist and must be acceptable to the Refuge Manager. Funding for the monitoring component of the restoration plan shall be provided by NCDOT. Progress reports shall be provided to the Refuge Manager at no cost to the refuge on a semi-annual basis. A final report shall be submitted to the Refuge Manager within 90 days of satisfactory completion of monitoring as stated in Special Use Permit Condition # 6.c.

8. Compatible sand is defined as sand consisting of a grain size and mineral content similar to native refuge beach sand as determined by the Refuge Manager or designee. All sand to be used for beach/dune habitat restoration shall be sampled and analyzed for the presence of hazardous or toxic materials, debris, or other pollutants. Sand containing any unsuitable material cannot be placed on the refuge beach or into a dune system.

9. If sand sources for compliance with the terms and conditions of SUP # 2006-014 are located on the refuge, relocation of the sand by whatever means will be covered by a separate Special Use Permit.
10. Any and all work areas on the refuge shall be sloped and contoured to pre-work conditions or to the satisfaction of the Refuge Manager.
11. Permittee is responsible for removing any and all construction debris, materials, and equipment from the refuge. If, during the period when the sandbags or other related materials are in place on the refuge, there is damage resulting in debris from the project, it shall be NCDOT's responsibility to clean up and remove the debris from the refuge.
- \* 12. Monitoring and maintaining the structural stability of the sandbag structure, including the sand covering the sandbags with associated vegetative community shall be the responsibility of NCDOT.
- \* 13. At the discretion of the Refuge Manager, a determination of failure to comply with all terms and provisions of SUP # 2006-014 shall result in revocation of the permit and removal of the sandbags within 60 days of the refuge notifying NCDOT of permit condition violation(s). Upon revocation or expiration of SUP # 2006-014, all sandbags along with associated appurtenances deemed by the Refuge Manager to be an un-natural addition to the refuge shall be removed within 60 days from receipt of notice of revocation of the permit.
14. Upon discovery of new ecological or biological information regarding fish, wildlife, or their habitats that could be affected by this project, the Refuge Manager retains the authority to amend this permit to protect natural resources in the interests of achieving the refuge system mission or the purpose for establishing the refuge.

*Anthony Payer (to be signed)*

Permittee Signature

*1-12-07*

Date

*Mike Bryant P.L.*

Issuing Officer Signature and Title

*1-12-2007*

Date



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Raleigh Field Office  
Post Office Box 33726  
Raleigh, North Carolina 27636-3726

October 1, 2008

Clay Willis  
North Carolina Department of Transportation  
113 Airport Dr., Suite 100  
Edenton, North Carolina 27932

Dear Mr. Willis:

This letter is in response to your letter of September 23, 2008 which provided the U.S. Fish and Wildlife Service (Service) with the biological determination of the North Carolina Department of Transportation that the proposed S-Curves Beach Habitat Restoration project on Pea Island in Dare County may affect, but is not likely to adversely affect the federally threatened piping plover (*Charadrius melodus*), loggerhead sea turtle (*Caretta caretta*) and green sea turtle (*Chelonia mydas*), and the federally endangered leatherback sea turtle (*Dermochelys coriacea*). These comments are provided in accordance with section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531-1543).

The purpose of this project is to restore beach habitat that may be used by federally threatened and endangered species, as well as other species. The project is being conducted as per a condition of Special Use Permit #2006-014, which was issued by the Service on December 11, 2006. That special use permit was issued for the placement of sand bags adjacent to NC 12 within the Pea Island National Wildlife Refuge.

Based on submitted information, the project will be conducted outside of piping plover and sea turtle nesting seasons (cumulatively April 1 through November 15) to avoid and minimize effects to these species to the greatest extent. Though wintering or migrating piping plovers may be present within the action area during the time frame of the proposed work, any effects are expected to be insignificant and discountable. The sand mining in the area behind the terminal groin will occur partially within proposed critical habitat for wintering piping plovers; however, the sand excavation will improve the quality of the critical habitat by enhancing the primary constituent elements and improving foraging habitat quality, which will likely produce beneficial effects for foraging piping plovers.

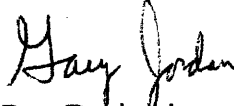
Though sea turtle nesting is possible within the action area, the high wave energy and the narrowness of the beach within this area likely precludes successful nesting. No direct effects on sea turtles are anticipated, and indirect effects are expected to be insignificant and discountable.



Based on available information, the Service concurs with your determination that the proposed project may affect, but is not likely to adversely affect the piping plover, loggerhead sea turtle, green sea turtle, and leatherback sea turtle. We believe that the requirements of section 7(a)(2) of the ESA have been satisfied. We remind you that obligations under section 7 consultation must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered in this review; (2) this action is subsequently modified in a manner that was not considered in this review; or (3) a new species is listed or critical habitat determined that may be affected by this identified action.

The Service appreciates the opportunity to review this project. If you have any questions regarding our response, please contact Mr. Gary Jordan at (919) 856-4520 (Ext. 32).

Sincerely,

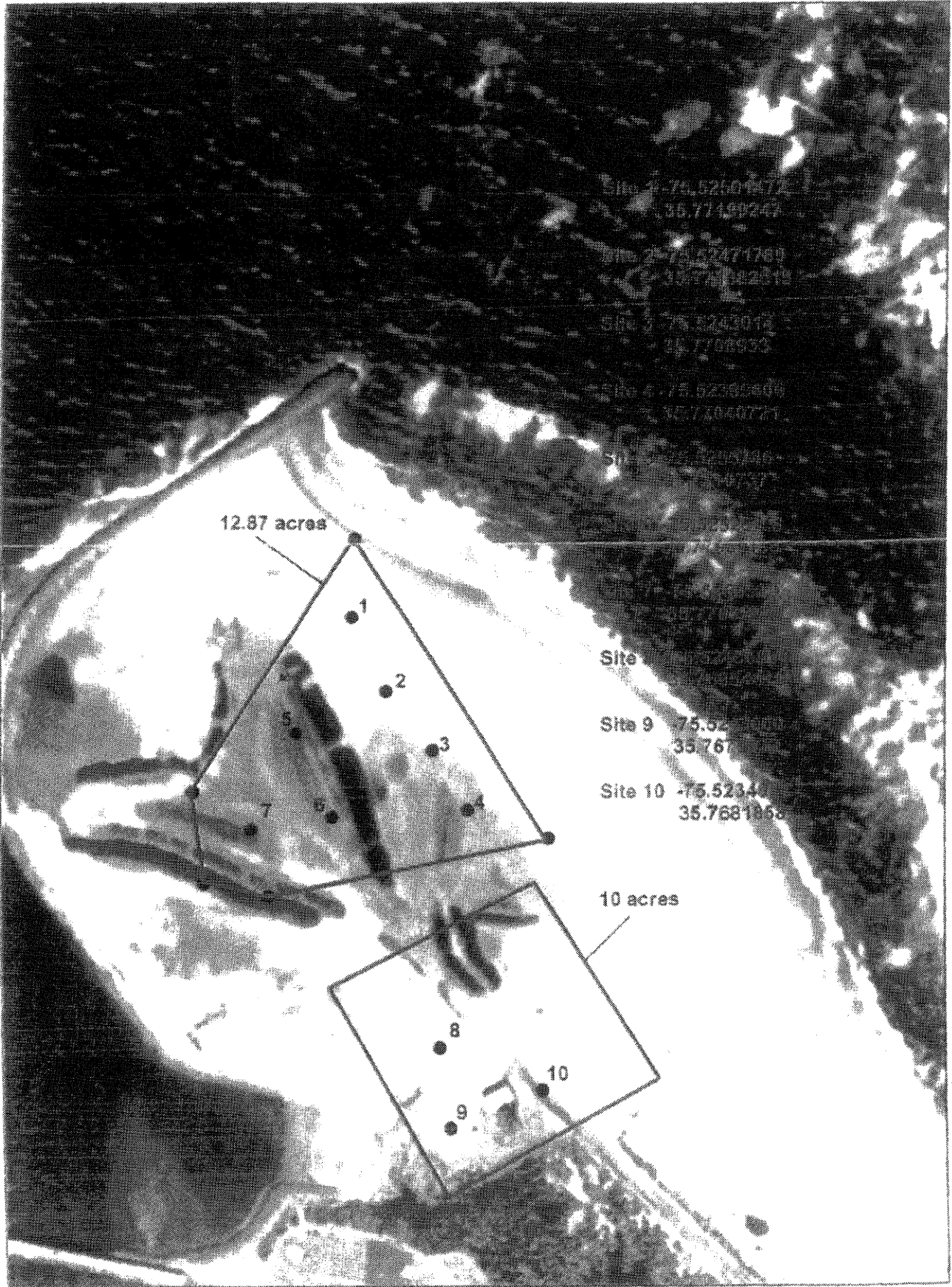
  
for Pete Benjamin  
Field Supervisor

cc: Bill Biddlecome, USACE, Washington, NC  
Travis Wilson, NCWRC, Creedmoor, NC  
Chris Militscher, USEPA, Raleigh, NC  
John Sullivan, FHWA, Raleigh, NC  
David Harris, NCDOT, Raleigh, NC

# **SAND MINING LOCATION AND PERMIT DRAWINGS**

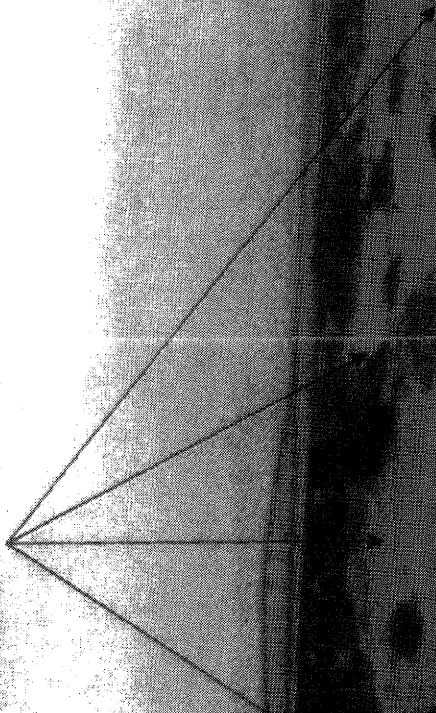
Groin Area and Old Coast Guard Station  
Proposed Sand Mining Location

67

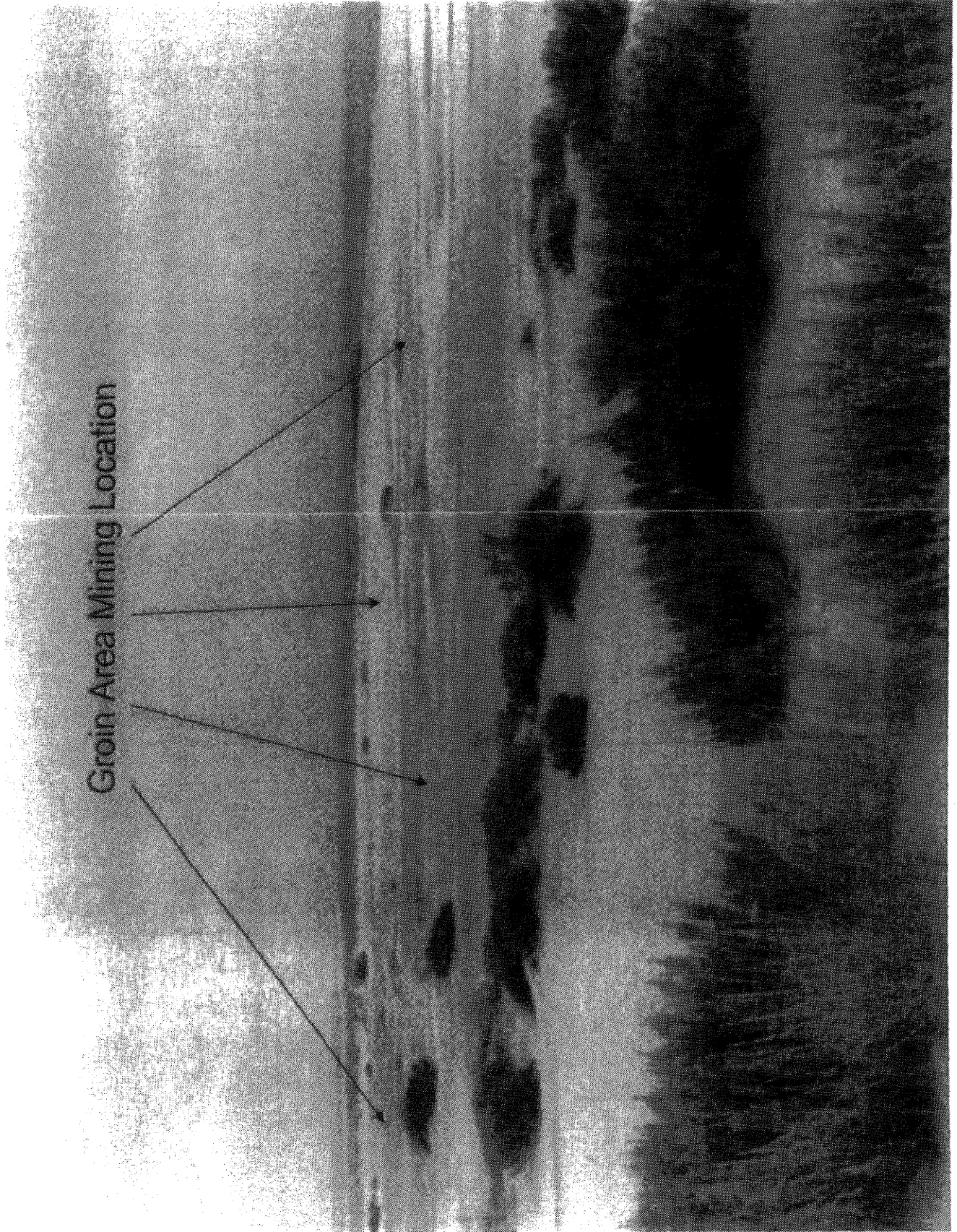




Old Coast Guard Station Mining Location

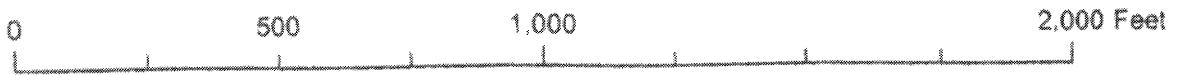


Groin Area Mining Location

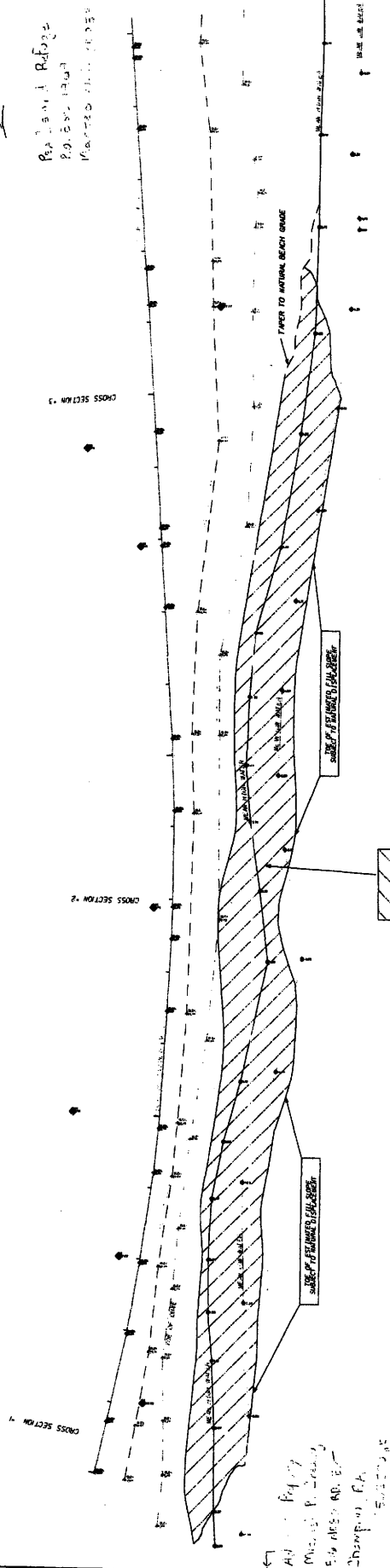


Proposed Beach Habitat Restoration  
Pea Island Dare County

71




# PLAN VIEW DETAILED DRAWING



72

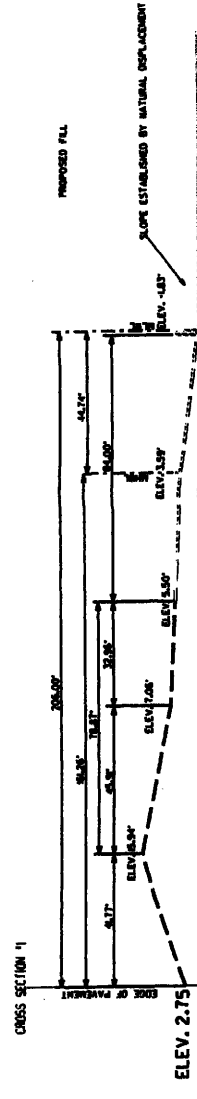
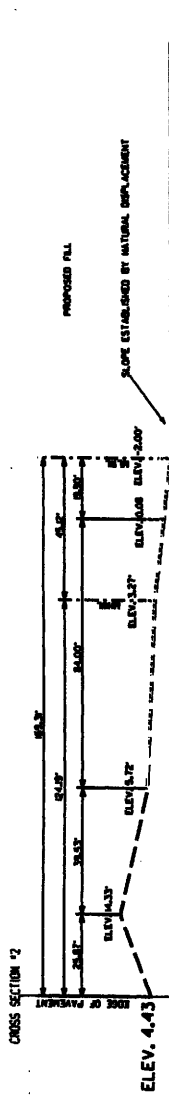
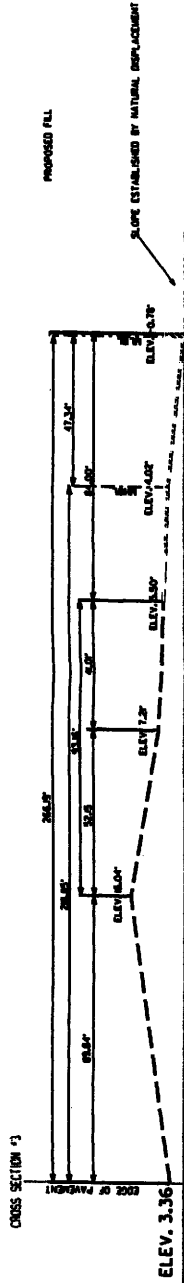
Per Law & Policy  
P.O. Box 1200  
Wilmington, NC 28402

Adrian P. Kelly  
Project Manager  
5300 S. P. Hwy  
Chapel Hill, NC 27514  
515-253-2000

	
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION DIVISION 1 113 AIRPORT DR. EDENTON, NC 27932 (252) 482-7977	
COUNTY: DARE QUAD: RODANTHE BASIN: PASQUOTANK	WBS#: N/A DATE: JULY 30, 2008 SHEETS: 1 OF 2
SUBJECT: BEACH HABITAT RESTORATION	
LAT. = 35.814601 N	LONG. = 75.465371 W
DRAWN BY: A.L. MULDER	
SCALE: 1" = 150'	



# CROSS SECTION VIEW DETAILED DRAWING



NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
 DIVISION 1  
 113 AIRPORT DR.  
 EDENTON, NC 27932 (252) 482-7977  
 COUNTY: DARE WBS#: N/A  
 QUAD: RODANTHE DATE: JULY 30, 2008  
 BASIN: PASCUOTANK SHEET#: 2 OF 2  
 SUBJECT: BEACH HABITAT RESTORATION  
 LAT. = 35.614501 N LONG. = 75.468271 W  
 DRAWN BY: A.L. MULDER SCALE: 1" = 40'