

**PROJECT SPECIAL PROVISION**

(10-18-95)

Z-1

**PERMITS**

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

<b><u>PERMIT</u></b>	<b><u>AUTHORITY GRANTING THE PERMIT</u></b>
Navigation	U. S. Coast Guard
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

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.**

U.S. ARMY CORPS OF ENGINEERS 818  
WILMINGTON DISTRICT

Action ID: SAW-2008-00944

County: Pasquotank & Camden

USGS Quad: Elizabeth City, NC

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

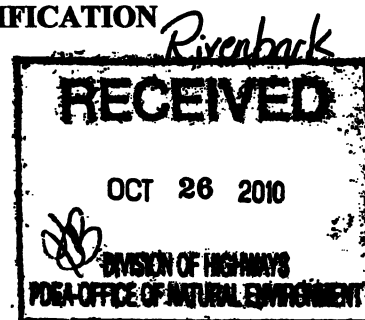
Property Owner / Authorized Agent: Dr. Gregory J. Thorpe, Ph.D

Address: Environmental Management Director, PDEA

N.C. Department of Transportation

1598 Mail Service Center

Raleigh, North Carolina 27699-1598



Telephone No.: (919) 431-6762

Size and location of property (water body, road name/number, town, etc.): The project is located at Bridge # 19 on eastbound US Highway 158 adjacent to and crossing the Pasquotank River. The project also includes additional road work and open water stream modifications in an area west of the existing bridge along US 158 adjacent to Poindexter Creek. TIP # U-4438.

Description of projects area and activity: Replace an existing structurally deficient 846' long draw bridge with a new Bascule draw bridge of the same length on the existing alignment permanently impacting 0.02 acres (0.01 of fill and 0.01 of excavation) of wetlands. Additionally there will be temporary impacts (hand clearing) to 0.1 acres of wetlands for construction purposes with < 0.01 acres of temporary fill (erosion control devices) taking place within the .1 acres. Utilities (power, telephone, CATV) are being relocated utilizing directional bore and a power line will be jettied to the bridge tender house. Along the Poindexter Creek section of the project there will be 0.03 acres of permanent surface water impacts and 0.30 acres of temporary surface water impacts from dewatering and excavation. 106 feet of piped Poindexter Creek will be opened via grass swales, 128 feet of new channel will be constructed and 206 feet of new channel will be piped. Note - portions of Poindexter Creek currently exist under buildings, concrete parking pads, and as man altered ditches. See Attached Additional Special Conditions.

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

Authorization: Regional General Permit Number: \_\_\_\_\_  
Nationwide Permit Number: NW # 3 & 12

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

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

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

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

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

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Bill Biddlecome at (910) 251-4558.

Corps Regulatory Official William J. Biddlecome Date: 10/21/2010 819

Expiration Date of Verification: 03/18/2012

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

### Determination of Jurisdiction:

Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).

- X There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- X The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued 03/13/2008. Action ID 2008-00944

Basis of Jurisdictional Determination: This site exhibits wetland criteria as described in the 1987 Corps Wetland Delineation Manual and is part of a broad continuum of wetlands connected to the Pasquotank River.

### Appeals Information (This information applies only to approved jurisdictional determinations.)

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

District Engineer, Wilmington Regulatory Division  
Attn: Bill Biddlecome, Project Manager,  
Washington Regulatory Field Office  
P.O. Box 1000  
Washington, North Carolina 27889

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

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

Corps Regulatory Official: William J. Biddlecome

Date 03/13/2008

Expiration Date 03/13/2013

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

Copy Furnished:

**Additional Special Conditions**

**Action I.D. # SAW-2008-00944 - NCDOT, Division 1, Bridge Replacement No. 19 on Eastbound US Highway 158 crossing the Pasquotank River, TIP # U-4438**

- a) To avoid adverse impacts to spawning populations of fish species at this project site, no in-water work will be conducted between February 15 and June 15. For the purpose of this moratorium, in water is defined as those waters within the Pasquotank River and its adjacent wetlands that during periods of inundation have an active connection to the Pasquotank River.**
- b) The permittee will follow NCDOT adopted anadromous fish stream crossing guidelines.**
- c) The existing bridge will be removed in accordance with NCDOT Best Management Practices for Bridge Demolition and Removal.**
- d) All measures will be taken to avoid any temporary fill from entering into the Pasquotank River from bridge demolition. Bridge demolition shall follow NCDOT best management practices for construction and maintenance activities dated August 2003 and incorporate NCDOT policy entitled "Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999.**
- e) No bridge demolition debris or excavated or fill material will be placed at anytime, in any wetlands or surrounding waters, outside of the alignment of the fill area indicated on the work plans.**
- f) All excavated materials will be confined above normal high water and landward of regularly or irregularly flooded wetlands behind adequate dikes or retaining structures to prevent spillover of solids into any wetlands or surrounding waters.**
- g) 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, or any activities that cause the degradation of waters or wetlands, except as authorized by this permit, or any modification to this permit. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional waters or wetlands associated with this permit without appropriate modification of this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project.**
- h) 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 USACE 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 USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. The permittee shall ensure that all such areas comply with condition (g) 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 preceding condition (g). All information will be available to the USACE upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

- i) The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions and any Corps approved modifications shall be available at the project site during construction and maintenance of this project.
- j) Any violation of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District, U.S. Army Corps of Engineers, within 24 hours of the violation.
- k) Remove all temporary structures (temporary work bridges, cofferdam, erosion control devices) upon completion of the project.
- l) All utility lines (including directionally bored) need to be buried 6 feet below the authorized channel depth of 10 feet for the Pasquotank River or a minimum of 6 feet below the greatest sounding in the area of the crossing, which ever depth is greater.
- m) The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with this direction, the Secretary or his representative may restore the waterway, by contract or otherwise, and recover the cost from the permittee.
- n) The authorized structure and associated activity must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be

made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for reason other than safety.

- o) 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 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.**
- p) The permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact the U.S. Coast Guard Marine Safety Office at (910) 772-2191.**
- q) Failure to institute and carry out the details of special conditions a - p., above, may result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with TIP No. U-4438, or such other remedy as the District Engineer or his authorized representatives may seek.**

**NATIONWIDE PERMIT 3  
DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS  
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS  
FEDERAL REGISTER  
AUTHORIZED MARCH 19, 2007**

**Maintenance.** (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

\* **Notification:** For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

**Note:** This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

**NATIONWIDE PERMIT 12  
DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS  
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS  
FEDERAL REGISTER  
AUTHORIZED MARCH 19, 2007**

**Utility Line Activities.** Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2 acre of waters of the United States.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the total discharge from a single and complete project does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access

roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR Part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

\* **Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met: (1) the activity involves mechanized land clearing in a forested wetland for the utility line right-of-way; (2) a section 10 permit is required; (3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet; (4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to a stream bed that is within that jurisdictional area; (5) discharges that result in the loss of greater than 1/10-acre of waters of the United States; (6) permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet; or (7) permanent access roads are constructed in waters of the United States with impervious materials. (See general condition 27.) (Sections 10 and 404)

**Note 1:** Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e., section 10 waters), copies of the pre-construction notification and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

**Note 2:** Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, accordance with the requirements for temporary fills.

**Note 3:** Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the United States associated with such pipelines will require a section 404 permit (see NWP 15).

**NATIONWIDE PERMIT CONDITIONS**

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. **Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.  
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.  
(c) 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 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 or alteration.
2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.
6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

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

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

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

\* (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the



NMFS, both lethal and non-lethal “takes” of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. **Historic Properties.** (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

\* (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19 **Designated Critical Resource Waters.** Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding

national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

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(Transferee)

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(Date)

\*

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

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

\*

27 Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

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

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement

will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any

proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

#### **FURTHER INFORMATION**

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

#### **DEFINITIONS**

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material.

**Enhancement:** The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

**Ephemeral stream:** An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

**Establishment (creation):** The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Independent utility:** A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

**Intermittent stream:** An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

**Loss of waters of the United States:** Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

**Non-tidal wetland:** A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

**Open water:** For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

**Ordinary High Water Mark:** An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

**Perennial stream:** A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Pre-construction notification:** A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete project:** The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.



*Stormwater management:* Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

*Stormwater management facilities:* Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

*Stream bed:* The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

*Stream channelization:* The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

*Structure:* An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

*Tidal wetland:* A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

*Vegetated shallows:* Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

*Waterbody:* For purposes of the NWP, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

## REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT

### 1.0. Excluded Waters

The Corps has identified waters that will be excluded from the use of all NWP's during certain timeframes. These waters are:

#### 1.1. Anadromous Fish Spawning Areas

Waters of the United States identified by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning areas are excluded during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

#### 1.2. Trout Waters Moratorium

Waters of the United States in the twenty-five designated trout counties of North Carolina are excluded during the period between October 15 and April 15 without prior written approval from the NCWRC. (see Section I. b. 7. for a list of the twenty-five trout counties).

#### 1.3. Sturgeon Spawning Areas

Waters of the United States designated as sturgeon spawning areas are excluded during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).

### \* 2.0. Waters Requiring Additional Notification

The Corps has identified waters that will be subject to additional notification requirements for activities authorized by all NWP's. These waters are:

#### \* 2.1. Western NC Counties that Drain to Designated Critical Habitat

Waters of the U.S. that requires a Pre-Construction Notification pursuant to General Condition 27 (PCN) and located in the sixteen counties listed below, applicants must provide a copy of the PCN to the US Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28805. This PCN must be sent concurrently to the US Fish and Wildlife Service and the Corps Asheville Regulatory Field Office. Please see General Condition 17 for specific notification requirements related to Federally Endangered Species and the following website for information on the location of designated critical habitat.

Counties with tributaries that drain to designated critical habitat that require notification to the Asheville US Fish and Wildlife Service: Avery, Cherokee, Forsyth, Graham, Haywood, Henderson, Jackson, Macon Mecklenburg, Mitchell, Stokes, Surry, Swain, Transylvania, Union and Yancey.

Website and office addresses for Endangered Species Act Information:

The Wilmington District has developed the following website for applicants which provide guidelines on how to review linked websites and maps in order to fulfill NWP general condition 17 requirements.

<http://www.saw.usace.army.mil/wetlands/ESA>

Applicants who do not have internet access may contact the appropriate US Fish and Wildlife Service offices or the US Army Corps of Engineers office listed below.

US Fish and Wildlife Service  
Asheville Field Office  
160 Zillicoa Street  
Asheville, NC 28801  
Telephone: (828) 258-3939

Asheville US Fish and Wildlife Service Office counties: All counties west of and including Anson, Stanly, Davidson, Forsyth and Stokes Counties

US Fish and Wildlife Service  
 Raleigh Field Office  
 Post Office Box 33726  
 Raleigh, NC 27636-3726  
 Telephone: (919) 856-4520

Raleigh US Fish and Wildlife Service Office counties: all counties east of and including Richmond, Montgomery, Randolph, Guilford, and Rockingham Counties.

\* **2.2. Special Designation Waters**

Prior to the use of any NWP in any of the following North Carolina identified waters and contiguous wetlands, applicants must comply with Nationwide Permit General Condition 27 (PCN). The North Carolina waters and contiguous wetlands that require additional notification requirements are:

“Outstanding Resource Waters” (ORW) and “High Quality Waters” (HQW) (as designated by the North Carolina Environmental Management Commission), or  
 “Inland Primary Nursery Areas” (IPNA) (as designated by the North Carolina Wildlife Resources Commission), or “Contiguous Wetlands” (as defined by the North Carolina Environmental Management Commission), or “Primary Nursery Areas” (PNA) (as designated by the North Carolina Marine Fisheries Commission).

**2.3. Coastal Area Management Act (CAMA) Areas of Environmental Concern**

Non-Federal applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities for non-Federal projects may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889).

\* **2.4. Barrier Islands**

Prior to the use of any NWP on a barrier island of North Carolina, applicants must comply with Nationwide Permit General Condition 27 (PCN).

\* **2.5. Mountain or Piedmont Bogs**

Prior to the use of any NWP in a “Mountain or Piedmont Bog” of North Carolina, applicants shall comply with Nationwide Permit General Condition 27 (PCN).

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

Mountain Bogs	Piedmont Bogs
Swamp Forest-Bog Complex	Upland depression Swamp Forest
Swamp Forest-Bog Complex (Spruce Subtype)	
Southern Appalachian Bog (Northern Subtype)	
Southern Appalachian Bog (Southern Subtype)	
Southern Appalachian Fen	

**\* 2.6. Animal Waste Facilities**

Prior to use of any NWP for construction of animal waste facilities in waters of the US, including wetlands, applicants shall comply with Nationwide Permit General Condition 27 (PCN).

**\* 2.7. Trout Waters**

Prior to any discharge of dredge or fill material into streams or waterbodies within the twenty-five (25) designated trout counties of North Carolina, the applicant shall comply with

Nationwide Permit General Condition 27 (PCN). The applicant shall also provide a copy of the notification to the appropriate NCWRC office to facilitate the determination of any potential impacts to designated Trout Waters. Notification to the Corps of Engineers will include a statement with the name of the NCWRC biologist contacted, the date of the notification, the location of work, a delineation of wetlands, a discussion of alternatives to working in the mountain trout waters, why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to mountain trout waters.

**NCWRC and NC Trout Counties**

<b>Mr. Ron Linville</b>			
Western Piedmont Region Coordinator	Alleghany	Caldwell	Watauga
3855 Idlewild Road	Ashe	Mitchell	Wilkes
Kernersville, NC 27284-9180	Avery	Stokes	
Telephone: (336) 769-9453	Burke	Surry	

<b>Mr. Dave McHenry</b>			
Mountain Region Coordinator	Buncombe	Henderson	Polk
20830 Great Smoky Mtn. Expressway	Cherokee	Jackson	Rutherford
Waynesville, NC 28786	Clay	Macon	Swain
Telephone: (828) 452-2546	Graham	Madison	Transylvania
Fax: (828) 452-7772	Haywood	McDowell	Yancey

**3.0. List of Corps Regional Conditions for All Nationwide Permits**

The following conditions apply to all Nationwide Permits in the Wilmington District:

**3.1. Limitation of Loss of Perennial Stream Bed**

NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of perennial streams. The NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of ephemeral and intermittent streams that exhibit important aquatic function(s)\* Loss of stream includes the linear feet of stream bed that is filled, excavated, or flooded by the proposed activity. The District Commander can waive the 300 linear foot limit for ephemeral and intermittent streams on a case-by-case basis if he determines that the proposed activity will result in minimal individual and cumulative adverse impacts to the aquatic environment. Waivers for the loss of ephemeral and intermittent streams must be in writing. This waiver only applies to the 300 linear feet threshold for NWPs. Mitigation may still be required for impacts to ephemeral and intermittent streams, on a case-by-case basis, depending on the impacts to the aquatic environment of the

proposed project. [\*Note: The Corps uses the Stream Quality Assessment Worksheet, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of aquatic function within the intermittent stream channel.]

**3.2. Mitigation for Loss of Stream Bed Exceeding 150 Feet.**

For any NWP that results in a loss of more than 150 linear feet of perennial and/or ephemeral/intermittent stream, the applicant shall provide a mitigation proposal to compensate for the loss of aquatic function associated with the proposed activity. For stream losses less than 150 linear feet, that require a PCN, the District Commander may determine, on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effect on the aquatic environment.

**3.3. Pre-construction Notification for Loss of Streambed Exceeding 150 Feet.**

Prior to use of any NWP for any activity which impacts more than 150 total linear feet of perennial stream or ephemeral/ intermittent stream, the applicant must comply with Nationwide Permit General Condition 27 (PCN). This applies to NWPs that do not have specific notification requirements. If a NWP has specific notification requirements, the requirements of the NWP should be followed.

**3.4. Restriction on Use of Live Concrete**

For all NWPs which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

**3.5. Requirements for Using Riprap for Bank Stabilization**

For all NWPs that allow for the use of riprap material for bank stabilization, the following measures shall be applied:

**3.5.1.** Filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

**3.5.2.** The placement of riprap shall be limited to the areas depicted on submitted work plan drawings.

**3.5.3.** The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities that would not have an adverse environmental effect.

**3.5.4.** It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions.

**3.5.5.** The riprap material shall consist of clean rock or masonry material such as, but not limited to, granite, marl, or broken concrete.

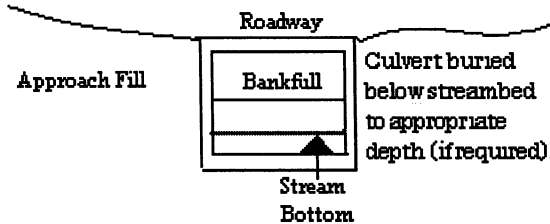
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**3.5.6.** A waiver from the specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional condition would result in greater adverse impacts to the aquatic environment.

**3.6. Safe Passage Requirements for Culvert Placement**

For all NWPs that involve the construction/installation of culverts, measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gage data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

In the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA): All pipe and culvert bottoms shall be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets.



In all other counties: Culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The bottom of the culvert must be placed at a depth below the natural stream bottom to provide for passage during drought or low flow conditions.

Destabilizing the channel and head cutting upstream should be considered in the placement of the culvert.

A waiver from the depth specifications in this condition may be requested in writing. The waiver will be issued if it can be demonstrated that the proposal would result in the least impacts to the aquatic environment.

All counties: Culverts placed in wetlands do not have to be buried.

### **3.7. Notification to NCDENR Shellfish Sanitation Section**

Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination from the disposal area and cause a temporary shellfish closure to be made. Such notification shall also be provided to the appropriate Corps of Engineers Regulatory Field Office. Any disposal of sand to the ocean beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas may be used. If beach disposal were to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swimming advisory shall be posted, and a press release shall be issued.

### **3.8. Preservation of Submerged Aquatic Vegetation**

Adverse impacts to Submerged Aquatic Vegetation (SAV) are not authorized by any NWP within any of the twenty coastal counties defined by North Carolina's Coastal Area Management Act of 1974 (CAMA).

The following regional conditions are required for NWP #12 - Utility Line Activities:

**4.1. Directional Drilling or Boring**

Pipeline/utility line construction through jurisdictional waters and wetlands will be accomplished utilizing directional drilling/boring methods to the maximum extent practicable.

**4.2. Temporary Discharge and Fill**

Temporary discharge of excavated or fill material into wetlands and waters of the United States will be for the absolute minimum period of time necessary to accomplish the work. Temporary discharges will be fully contained with appropriate erosion control or containment methods or otherwise such fills will consist of non-erodible materials.

**4.3. Work Corridor Restrictions**

The work area authorized by this permit, including temporary and/or permanent fills, will be minimized to the greatest extent practicable. Justification for work corridors exceeding forty (40) feet in width is required and will be based on pipeline diameter and length, size of equipment required to construct the utility line, and other construction information deemed necessary to support the request. The applicant is required to provide this information to the Corps with the initial notification package.

**4.4. Depth Requirement in Federal Channels**

In areas where a sub-aqueous utility line is to cross a Federally maintained channel, (i.e., the Atlantic Intracoastal Waterway [AIWW]), the line will be buried at least six (6) feet below the depth of the authorized channel. For areas outside Federally-maintained channels, sub-aqueous lines must be installed at a minimum depth of two (2) feet below the substrate when such lines might interfere with navigation.

**4.5. Clearance Requirement for Non-electric Aerial Lines**

The minimum clearance for aerial communication lines, or any lines not transmitting electrical power, will be ten (10) feet above the clearance required for nearby stationary bridges as established by the U.S. Coast Guard. In the event the U.S. Coast Guard has not established a bridge clearance, minimum vertical clearances for power and aerial lines will not be less than required by Section 23, Rule 232, of the latest revision of the National Electrical Safety Code (ANSI C2). Clearances will not be less than shown in Table 232-1, Item 7, ANSI C2.

**4.6. Reference Conditions for Electrical Aerial Lines**

The clearance for an aerial line is based on the low point of the line under conditions that produce the greatest sag, taking into consideration temperature, load, wind, length or span and the type of supports. The minimum clearance for an aerial electrical power transmission line crossing navigable waters shall be governed by the system voltage, as indicated below:

Nominal System	Minimum Clearance
Voltage, kilovolt	Above Bridge Clearance (As Established by the U.S. Coast Guard)
115 and below	20 feet
138	22
161	24
230	26
350	30

500	35
700	42
750 to 765	45



## **NC DIVISION OF WATER QUALITY - GENERAL CERTIFICATION CONDITIONS**

For the most recent General Certification conditions, call the NC Division of Water Quality, Wetlands/401 Certification Unit at (919) 733-1786 or access the following website:

<http://h2o.enr.state.nc.us/ncwetlands/certs.html>

## **NC DIVISION OF COASTAL MANAGEMENT - STATE CONSISTENCY**

In a letter dated May 7, 2007, the North Carolina Division of Coastal Management found this NWP consistent with the North Carolina Coastal Zone Management Program. Updates on CAMA Consistency for NC can be found on the NC DCM web site at:

<http://dcm2.enr.state.nc.us/Permits/consist.htm>

## **EASTERN BAND OF THE CHEROKEE INDIANS TRIBAL WATER QUALITY CERTIFICATIONS**

In a letter dated May 8, 2007, US EPA, on behalf of the Eastern Band of Cherokee Indians, provided Tribal General Conditions for Nationwide Permits on Cherokee Indian Reservation. These Tribal General Conditions are located on the Corps website at:

<http://www.saw.usace.army.mil/WETLANDS/NWP2007/EBCI-certs.html>

### **Citations:**

2007 Nationwide Permits Public Notice for Final Issue Date: March 15, 2007

Correction Notice for Nationwide Permits, Federal Register / Vol. 72, No. 88 / Tuesday, May 8, 2007 / Notices p.26082

2007 SAW Regional Conditions – Authorized June 1, 2007

This and other information can be found on the Corps web site at:

<http://www.saw.usace.army.mil/WETLANDS/NWP2007/nationwide-permits.html>

U-4438



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

Beverly Eaves Perdue, Governor

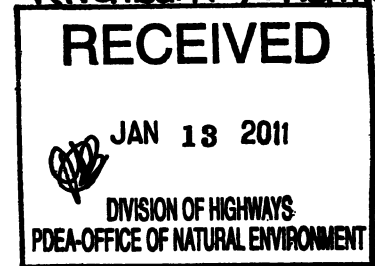
James H. Gregson, Director

Dee Freeman, Secretary

*Rivenbark / Merritt*

January 6, 2011

N.C. Department of Transportation  
1598 Mail Service Center  
Raleigh, NC 27699-1598



Dear Sir or Madam:

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>

Permit Class  
**AMENDED**

847

Permit Number  
**149-10**

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, 1598 Mail Service Center, Raleigh, NC 27699-1598

Authorizing development in Pasquotank and Camden County at Pasquotank River, Bridge No. 19 on eastbound US 158 as requested in the permittee's application dated 10/20/10, including the attached workplan drawings (21) as referenced in Condition No. 1 of this permit.

This permit, issued on 1/6/11, 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.

### TIP No. U-4438

- 1) All work authorized by this permit shall be carried out in accordance with the following attached workplan drawings(21), except as modified herein: 4 dated 10/19/10; 1 dated 10/14/10; 1 dated 10/15/10; 14 dated as received 10/20/10; and 1 dated 1/6/11.
- 2) In order to protect anadromous fisheries resources, no in-water work shall be conducted from February 15 to June 15 of any year without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the N.C. Wildlife Resources Commission (WRC) and the N.C. Division of Marine Fisheries (DMF).

(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

**No expiration date, pursuant to GS 136-44.7B**

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) Unless specifically altered herein, any mitigative measures, environmental commitments, or protection measures relating to historical and cultural resource protection specifically made by the permittee in the Coastal Area Management Act (CAMA) permit application and/or the Finding of No Significant Impact (FONSI) document dated 1/28/10 shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this permit.

**NOTE:** This project will impact approximately 0.06 acres of CAMA Coastal Wetlands due to shading. This project will permanently impact approximately 0.02 acres of 404 wetlands and approximately 0.03 acres of surface waters due to excavation and/or filling. This project will temporarily impact approximately 0.10 acres of 404 wetlands and approximately 0.30 acres of surface waters.

- 4) Fill slopes in wetlands shall be 3:1 or steeper.
- 5) In accordance with commitments made by the permittee, all clearing within wetlands shall be accomplished by hand clearing only. Any other method of clearing within wetlands shall require additional approval from the Division. There shall be no clearing of wetlands outside of the areas indicated on the attached workplan drawings, without prior approval from the Division.
- 6) Construction mats shall be utilized to support equipment within hand cleared areas to minimize impacts. These mats shall be removed immediately following project completion.
- 7) The permittee shall minimize the need to cross wetlands in transporting equipment for hand clearing operations to the maximum extent practicable.
- 8) No excavation or filling shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawings, without permit modification.
- 9) Material excavated may be used in fill areas associated with the project once properly dewatered or shall be removed from the site and taken to a high ground location.
- 10) The temporary placement or double handling of excavated and/or fill materials within waters or vegetated wetlands is not authorized.
- 11) All excavated materials shall be confined above normal water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 12) All fill material shall be clean and free of any pollutants, except in trace quantities.
- 13) Placement of riprap shall be limited to the areas as depicted on the attached workplan drawings. The riprap material shall be free from loose dirt or any pollutant. The riprap material shall consist of clean rock or masonry materials such as but not limited to granite, marl or broken concrete.
- 14) Live concrete shall not be allowed to contact the water in or entering into the Pasquotank River, or the adjacent wetlands.

**ADDITIONAL CONDITIONS**

- 15) Construction staging areas shall be located only in upland areas, and not in wetlands or Waters of the State.
- 16) All materials and debris associated with the removal and/or construction of the existing and/or new bridge and associated structures and components, roadway asphalt, other existing structures within the Right-of-Way as authorized by this permit and associated materials shall not enter wetlands or Waters of the State, even temporarily. Any such material shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.
- 17) Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body and DCM shall be notified of each occurrence within one working day.
- 18) Construction access for bridge demolition and construction shall be through the use of the existing bridge, temporary work bridges, and/or barges.
- 19) Dredging in any manner, including "kicking" with boat propellers is not authorized.
- 20) The temporary work bridges shall be removed in their entirety within 90 days after they are no longer needed. However, if this timeframe occurs while the moratorium referenced in Condition No. 2 of this permit is in effect, then the temporary work bridges shall be removed in their entirety within 30 days of the moratorium end date.
- 21) The installation of the bridge piles shall be accomplished by pile driving and/or the use of a vibratory hammer. Should the permittee and/or its contractor desire to utilize another type of pile installation, such as drilled shaft construction or jetting, additional authorization from DCM shall be required.
- 22) Bridge deck drains shall not be located over CAMA Coastal Wetlands. Bridge deck drains shall not cause erosion of adjacent wetlands.
- 23) The permittee shall follow DOT's "Best Management Practices for Bridge Demolition and Removal" (9/20/99) to avoid any temporary fill in "Waters of the United States".

**NOTE:** The bridge demolition debris may be suitable for use as artificial reef material. The permittee is encouraged to contact the Artificial Reef Coordinator at the DMF Morehead City Office at (252) 726-7021 to coordinate review of the suitability of the material and arrangements for such use.

**Bulkhead**

- 24) The authorized alignment of the bulkhead shall be staked by the permittee and approved on-site by a representative of DCM prior to the start of any construction.
- 25) The authorized alignment of the bulkhead shall adhere to the alignment depicted on the attached workplan drawings.

**ADDITIONAL CONDITIONS**

- 26) The bulkhead shall be in place and the filter fabric associated with backfill shall be in place prior to the placement of any backfill.
- 27) All backfill material shall be obtained from a high ground source. No unconfined backfill shall be discharged into estuarine or public trust waters. The fill material shall be clean and free of any pollutants except in trace quantities.
- 28) The bulkhead shall be structurally tight so as to prevent seepage of fill materials through the structure. The bulkhead shall be solid and constructed of treated wood, concrete slabs, metal or vinyl sheet piles or other suitable materials approved by the N.C. Division of Coastal Management.

**Sedimentation and Erosion Control**

- 29) Turbidity curtains and silt fences shall be used to isolate all work areas from the Pasquotank River, including but not limited to installation of the submarine cable for the bridge powerline, pile installation and removal, placement of riprap, and excavation and filling activities within or adjacent to surface waters. The turbidity curtains shall encircle the immediate work area, however, they shall not extend across the river or impede navigation. The turbidity curtains shall be of sufficient length and effectiveness to prevent a visible increase in the amount of suspended sediments in adjacent waters. The turbidity curtains shall be properly maintained and retained in the water until construction is complete. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.
- 30) The permittee shall follow "Best Management Practices for the Protection of Surface Waters".
- 31) This project shall conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.
- 32) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.
- 33) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, etc.).

**Stormwater Management**

**NOTE:** The N.C. Division of Water Quality (DWQ) confirmed in a letter dated 10/21/10 that the subject project is excluded from State Stormwater permitting requirements as set forth in Section 2(d)(1) of Session Law 2008-211, effective October 1, 2008, and the stormwater rules under Title 15A NCAC 2H .1000, as amended.

**Utility Impacts**

- 34) Any relocation of utility lines that is not specifically depicted on the attached workplan drawings, or specifically described within the attached permit application, shall require approval from DCM, either under the authority of this permit, or by obtaining separate authorization.

**ADDITIONAL CONDITIONS**

**NOTE:** CAMA General Permit 07H .1600 (No. 55251) was issued by DCM on 10/28/10 authorizing a portion of the utility work associated with this project.

- 35) All subaqueous utility lines shall be placed a minimum of 6' below the bottom contour.
- 36) The permittee shall obtain final approval from the N.C. Division of Environmental Health Public Water Supply Plan Review Section for the relocation and/or replacement of potable water supply lines prior to construction.

**NOTE:** Potable water supply lines may lie in or near the proposed project area. The permittee should contact the City of Elizabeth City for assistance in determining precise locations of existing utilities on the west side of the Pasquotank River and the permittee should contact the South Camden Water and Sewer District for utility locations on the east side of the River.

**General**

- 37) No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work following completion of construction activities.
- 38) During bridge demolition and construction, the permittee shall make every attempt to allow the same navigation that is currently possible in the Pasquotank River through the bridge opening. If this is not possible, then adequate notice shall be provided to the public that navigation will be limited during construction. The notice shall include an estimate of the amount of time that the limited navigation will occur.
- 39) The permittee shall install and maintain at his expense any signal lights or signals prescribed by the U.S. Coast Guard, through regulation or otherwise, on the authorized facilities including temporary workbridges.
- 40) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent wetlands and Waters of the State.
- 41) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.
- 42) Development authorized by this permit shall only be conducted within NCDOT Right-of-Ways and/or easements.
- 43) The N.C. Division of Water Quality has authorized the proposed project under General Water Quality Certifications No. 3687 and 3819 (DWQ Project No. 20100874 v.1), which were issued on 11/4/10. Any violation of the Certifications approved by DWQ shall be considered a violation of this CAMA permit.

**ADDITIONAL CONDITIONS**

**NOTE:** The permittee and/or his contractor is strongly encouraged to contact the DCM Transportation Project Coordinator in Morehead City to request a pre-construction conference prior to project initiation.

**NOTE:** The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 3 and Nationwide Permit Number 12 (COE Action ID No. 2008-00944), which were issued on 10/21/10.

**NOTE:** This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.



**Brittingham, Cathy**

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**From:** Rivenbark, Chris  
**Sent:** Thursday, January 06, 2011 8:56 AM  
**To:** Lane, Stephen  
**Cc:** Brittingham, Cathy  
**Subject:** RE: U-4438 CAMA permit issued  
**Attachments:** U-4438 warning signs.jpg

Stephen,

I've attached a screen print of permit drawing sheet 3 of 8 with a rough estimate of where the signs will be installed. Let me know if this isn't sufficient.

Chris Rivenbark  
PDEA Natural Environment Unit  
N.C. Department of Transportation  
(919) 431-6762 office

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**From:** Lane, Stephen  
**Sent:** Wednesday, January 05, 2011 5:01 PM  
**To:** Rivenbark, Chris  
**Cc:** Brittingham, Cathy  
**Subject:** RE: U-4438 CAMA permit issued

Hi Chris,

Can you email us a plan view of the location of the warning signs. They can be hand drawn in on one of the current plan view sheets if you would like. We are trying to turn an amended permit around to you ASAP.

Thanks,  
Stephen

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**From:** Rivenbark, Chris  
**Sent:** Wednesday, January 05, 2011 8:13 AM  
**To:** Brittingham, Cathy  
**Cc:** Lane, Stephen  
**Subject:** RE: U-4438 CAMA permit issued

Good morning Cathy,

I had mentioned in my previous email that we need to install 3 or 4 warning signs near the outlet of the pipes from the pumps. The engineer said to assume only 1 sq.ft. of impacts per pole.

I've also had people ask about conditions 17 and 21 but I believe I've unconfused them. The main question was related to the pilings and bents that are in-water.

Chris Rivenbark  
PDEA Natural Environment Unit  
N.C. Department of Transportation  
(919) 431-6762 office

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**From:** Brittingham, Cathy  
**Sent:** Tuesday, January 04, 2011 10:12 AM  
**To:** Rivenbark, Chris  
**Cc:** Lane, Stephen  
**Subject:** FW: U-4438 CAMA permit issued

Hi Chris,

DCM will need to amend the CAMA permit issued 12/22/10 to add turbidity curtains, and shorten the moratorium date to June 15. Are there any additional issues that have come up during the NCDOT internal review that we should know about before we proceed?

Sincerely,

Cathy Brittingham

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**From:** Hart, Kevin  
**Sent:** Monday, January 03, 2011 8:19 AM  
**To:** Lane, Stephen; Brittingham, Cathy  
**Cc:** Winslow, Sara; Deaton, Anne  
**Subject:** RE: U-4438 CAMA permit issued

Stephen and Cathy,  
Sorry for the delay as I just got back into my office today. Normally the NCDMF moratorium end date is June 30 for bridges in anadromous fish areas, but we will agree to the 15<sup>th</sup> on this project as stated by Sara in the email as long as turbidity curtains are used.  
Kevin

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**From:** Lane, Stephen  
**Sent:** Tuesday, December 28, 2010 3:28 PM  
**To:** Brittingham, Cathy; Hart, Kevin  
**Subject:** RE: U-4438 CAMA permit issued

Hi Cathy and Kevin,

I had not seen the email until today. Kevin can you coordinate with Anne Deaton and Sara Winslow and let us know if DMF would like to continue with the June 30<sup>th</sup> moratorium date as indicated in the current DCM permit, or change to the June 15<sup>th</sup> date?

Thanks,  
Stephen

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**From:** Brittingham, Cathy  
**Sent:** Thursday, December 23, 2010 10:55 AM  
**To:** Hart, Kevin  
**Cc:** Lane, Stephen  
**Subject:** FW: U-4438 CAMA permit issued

Hi Kevin,

Here is the e-mail I received this morning from Chris Rivenbark. Chris' e-mail was the first I had seen of Sara Winslow's e-mail.

Cathy

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**From:** Rivenbark, Chris  
**Sent:** Thursday, December 23, 2010 8:41 AM  
**To:** Brittingham, Cathy  
**Cc:** Lane, Stephen  
**Subject:** RE: U-4438 CAMA permit issued

Thank you both. I'll send it out for internal review and send a copy to the USCG as well. I did notice a discrepancy with the moratorium end date. I've attached an email from Sara Winslow agreeing to the June 15 end date.

Also, we need to install 3 or 4 warning signs near the outlet of the pipes from the pumps. They said to assume only 1 sq.ft. of impacts per pole but I wanted to check with you two to see if this warranted a letter of refinement.

One more thing, Stephen let me know if you still have a question about deck drains. This has been a hectic week so I apologize for not returning your call.

Chris Rivenbark  
PDEA Natural Environment Unit  
N.C. Department of Transportation  
(919) 431-6762 office

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**From:** Brittingham, Cathy  
**Sent:** Wednesday, December 22, 2010 4:18 PM  
**To:** Rivenbark, Chris  
**Cc:** Lane, Stephen  
**Subject:** U-4438 CAMA permit issued

Hi Chris,

Attached please find a scanned copy of the CAMA permit for U-4438. Also please find attached a WORD document with just the permit conditions.

A paper copy of the permit will be distributed in the regular mail tomorrow.

Please let me or Stephen Lane know if you have any questions or concerns.

Sincerely,

Cathy Brittingham

Cathy Brittingham  
Transportation Project Coordinator  
N.C. Division of Coastal Management  
1638 Mail Service Center  
Raleigh, NC 27699-1638  
(919) 733-2293 x238 telephone  
(919) 733-1495 FAX  
[cathy.brittingham@ncdenr.gov](mailto:cathy.brittingham@ncdenr.gov)

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties

NAD 83/95

958

FEET (6)

EMETTE FRYE & PRODUCE CO., INC.  
REMOVE EXISTING 2 @ 48" CIP'S. RETAIN EXISTING PUMP SYSTEM AND 24" OUTLET PIPES. CONSTRUCT NEW PUMP SYSTEM.

TOP OF BANK

SITE 3

Location of 3-4 warning signs near the outlets from the pumps  
1/6/11 CB

MATCH LINE -L- STA

S 82° 36' 45.5" E1

REMOVE EXISTING BULKHEAD AND CONSTRUCT NEW BULKHEAD JOINTS INTO EXISTING.

TEMPORARY WORK BRIDGE

SITE 3

CITY OF ELIZABETH CITY

S 12° 27' 04" W

REMOVE EXISTING SYSTEM BETWEEN 357-558

12" PROP BULKHEAD TO PROP ALLUM CURB VERT HEADWALL TIE TO EXIST CONC. BRASS

TIE TO EXIST CONC WALL

SITE 1

PROPOSED PUMP PLATFORMS

REMOVE

VALLE MART, INC.

TIE INTO EXIST SYSTEM

SITE 1

REMOVE

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17

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North Carolina Department of Environment and Natural Resources

Division of Water Quality  
Coleen H. Sullins  
Director

Beverly Eaves Perdue  
Governor

Dee Freeman  
Secretary

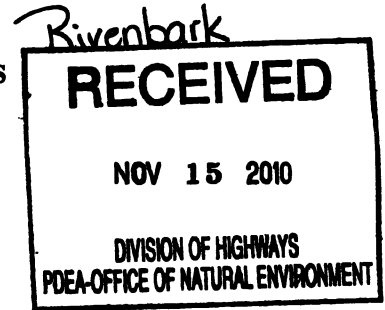
November 4, 2010  
Pasquotank and Camden Counties  
NCDWQ Project No. 20100874v.1  
Bridge 19 on eastbound US 158  
TIP No. U-4438

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

Mr. Greg Thorpe, Ph.D  
NCDOT, PDEA, Environmental Management Director  
1598 Mail Service Center  
Raleigh, NC 27699-1598

Dear Dr. Thorpe:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of replacing bridge number 19 on eastbound US 158 over the Pasquotank River in Pasquotank and Camden Counties:



Stream Impacts in the Pasquotank River Basin

Site	Permanent Fill in Intermittent Stream (linear ft)	Temporary Fill in Intermittent Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)	Pipe Removal <sup>1</sup> (linear ft)
1	0	0	33	46	79	0	106
2	0	0	0	23	23	0	0
3	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0
<b>TOTAL:</b>	<b>0</b>	<b>0</b>	<b>33</b>	<b>69</b>	<b>102</b>	<b>0</b>	<b>106</b>

<sup>1</sup> The 106 feet of pipe will be removed and replaced with a grass swale

**Total Stream Impact for Project: 102 linear feet.**

Wetland Impacts in the Pasquotank River Basin

Site	Fill (acre)	Fill (temporary) (acre)	Excavation (acre)	Mechanized Clearing (acre)	Hand Clearing (acre)	Area under Bridge (acre) <sup>1</sup>	Total Wetland Impact (ac)
1	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0
4	0.01	0.01	0.01	0	0.10	0	0.13
Bridge	0.02	0	0	0	0	0	0.02
Work Bridge	0	0.06	0	0	0	0	0.06
<b>TOTAL:</b>	<b>0.03</b>	<b>0.07</b>	<b>0.01</b>	<b>0</b>	<b>0.10</b>	<b>0</b>	<b>0.21</b>

<sup>1</sup> There are no impacts to wetlands under the bridge; the bridge replaces an existing bridge on existing alignment with same general footprint.

**Total Wetland Impact for Project: 0.21 acres.**

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



**Open Water River Impacts in the Pasquotank River Basin**

Site	Permanent Fill in Open Waters (acres)	Temporary Fill in Open Waters (acres)	Excavation <sup>1</sup> (acres)	Total Impact to Open Waters (acres)
1	0.01	0	0.28	0.29
3	0.01	0.01	0	0.02
Bridge	0.03	0	0	0.03
Work Bridge	0	0.02	0	0.02
<b>TOTAL:</b>	<b>0.05</b>	<b>0.03</b>	<b>0.28</b>	<b>0.36</b>

<sup>1</sup> Excavation at Site 1 is associated with the cleaning out of an existing in-stream stormwater holding pond  
**Total Open Water Impact for Project: 0.36 acres.**

The project shall be constructed in accordance with your application dated received October 20, 2010. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3687 and 3819. This certification corresponds to the Nationwide Permit 3 and Nationwide Permit 12 issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the NCDWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

**Conditions of Certification:**

**Project Specific Conditions**

1. All channel relocations and grass swale construction at Site 1 and Site 2 shall be constructed in a dry work area and be stabilized before stream flows are diverted. Channel relocations will be completed and stabilized, and must be approved on site by NCDWQ staff, prior to diverting water into the new channel. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. All stream banks shall be matted with coir fiber matting. Also, rip-rap may be allowed if it is necessary to maintain the physical integrity of the stream; but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested.
2. At locations where ponds will be drained, proper measures will be taken to drain the pond with limited impact to upstream and downstream channel stability as well as to native aquatic species. Proper measures will be taken to avoid sediment release and/or sediment accumulation downstream as a result of pond draining. If typical pond draining techniques will create significant disturbance to native aquatic species, additional measures such as collection and relocation may be necessary to prevent a significant fish kill. NCDOT shall consult with NC Wildlife Resources staff to determine if there are any sensitive species, and the most appropriate measures to limit impacts to these species.
3. The post-construction removal of any temporary bridge structures must return the project site to its preconstruction contours and elevations. The impacted areas shall be revegetated with appropriate native species.
4. Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.
5. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices*.
6. Bridge piles and bents shall be constructed using driven piles (hammer or vibratory) or drilled shaft construction methods. More specifically, jetting or other methods of pile driving are prohibited without prior written approval

from NCDWQ first.

- 7 No drill slurry or water that has been in contact with uncured concrete shall be allowed to enter surface waters. This water shall be captured, treated, and disposed of properly.
8. All pile driving or drilling activities shall be enclosed in turbidity curtains unless otherwise approved by NCDWQ in this certification.
9. All bridge construction shall be performed from the existing bridge, temporary work bridges, temporary causeways, or floating or sunken barges. If work conditions require barges, they shall be floated into position and then sunk. The barges shall not be sunk and then dragged into position. Under no circumstances should barges be dragged along the bottom of the surface water.
10. All jetting activities associated with the placement of the submarine cable between bascule piers shall be enclosed in appropriate turbidity curtains. The DWQ realizes that the depth of the waterway in the channel may restrict the curtain from reaching the bottom of the river; however, it should still retain most turbidity to the project area. Additionally, the NCDOT and its contractors shall utilize other means, as necessary, to reasonably retain turbid water and keep it from leaving the project area. NCDOT and its contractors shall employ visual observation of the work area from the surface during the jetting process to ensure that turbid water is not visually leaving the work area.
11. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams, shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWQ for guidance on how to proceed and to determine whether or not a permit modification will be required.
12. Riprap shall not be placed in the active thalweg channel or placed in the streambed in a manner that precludes aquatic life passage. Bioengineering boulders or structures should be properly designed, sized and installed.
13. The stream channel shall be excavated no deeper than the natural bed material of the stream, to the maximum extent practicable. Efforts must be made to minimize impacts to the stream banks, as well as to vegetation responsible for maintaining the stream bank stability. Any applicable riparian buffer impact for access to stream channel shall be temporary and be revegetated with native riparian species.
14. The permittee will need to adhere to all appropriate in-water work moratoria (including the use of pile driving or vibration techniques) prescribed by the NC Wildlife Resources Commission. No in-water work is permitted between February 15 and June 15 of any year, without prior approval from the NC Division of Water Quality and the NC Wildlife Resources Commission. In addition, the permittee shall conform to the NCDOT policy entitled *Stream Crossing Guidelines for Anadromous Fish Passage* (May 12, 1997) at all times.

#### General Conditions

15. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
16. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
17. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
18. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.
- \* 19. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.

20. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
21. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
22. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
23. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
24. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
25. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If NCDWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, NCDWQ may reevaluate and modify this certification.
26. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.
27. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.
28. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.
29. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
30. Native riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
31. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.
32. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
33. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:
  - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
  - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
  - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.



d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.

34. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.

\* 35. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify NCDWQ when all work included in the 401 Certification has been completed.

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

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

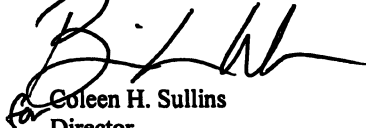
Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919)-733-2698, Facsimile: (919)-733-3478

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

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

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact David Wainwright at (919)715-3415.

Sincerely,



Coleen H. Sullins  
Director

Cc: Wilmington US Army Corp District Office  
Clay Willis, Division 1 Environmental Officer  
Bill Biddlecome, US Army Corps of Engineers, Washington Field Office  
Chris Militscher, Environmental Protection Agency (electronic copy only)  
Travis Wilson, NC Wildlife Resources Commission (electronic copy only)  
Cathy Brittingham, Division of Coastal Management  
Garcy Ward, NCDWQ Washington Regional Office  
File Copy

# Water Quality Certification N<sup>o</sup>. 3687 862

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBERS: 3 (MAINTENANCE), 4 (FISH AND WILDLIFE HARVESTING, ENHANCEMENT, AND ATTRACTION DEVICES AND ACTIVITIES), 5 (SCIENTIFIC MEASUREMENT DEVICES—25 CUBIC YARDS FOR WEIRS AND FLUMES), 6 (SURVEY ACTIVITIES—25 CUBIC YARDS FOR TEMPORARY PADS), 7 (OUTFALL STRUCTURES AND ASSOCIATED INTAKE STRUCTURES), 19 (MINOR DREDGING), 20 (OIL SPILL CLEANUP), 22 (REMOVAL OF VESSELS), 25 (STRUCTURAL DISCHARGE), 30(MOIST SOIL MANAGEMENT FOR WILDLIFE), 32 (COMPLETED ENFORCEMENT ACTIONS), 36 (BOAT RAMPS [IN NONWETLAND SITES]), AND REGIONAL PERMIT 197800056 (PIERS, DOCKS AND BOATHOUSES), AND REGIONAL PERMIT 197800125 (BOAT RAMPS) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

Water Quality Certification Number 3687 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, Section .0500 and 15 NCAC 2B .0200 for the discharge of fill material to waters and wetland areas which are waters of the United States as described in 33 CFR 330 Appendix A (B) (3, 4, 5, 6, 7, 19, 20, 22, 25, 30, 32, and 36) of the Corps of Engineers regulations and Regional Permits 197800056 and 19780125 and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

**Activities meeting any one (1) of the following thresholds or circumstances require *written approval* for a 401 Water Quality Certification from the Division of Water Quality (the "Division"):**

- a. Impacts equal or greater than 40 linear feet of additional permanent stream impact at an existing stream crossing location, or
- b. Temporary or permanent impacts equal to or exceeding: one-third (1/3) acre of wetlands East of Interstate-95, or one-tenth (1/10) of acre of wetlands West of Interstate-95; or
- c. Any impact associated with a Notice of Violation or an enforcement action initiated by the Division and/or the Division of Land Resources; or
- d. Projects with any impacts to streams, wetlands, and/or waters that have received a Notice of Violation from the Division and/or Division of Land Resources; or
- e. Any impacts to streams and/or buffers in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) *unless* the activities are listed as "EXEMPT" from these Rules.

\*

In accordance with North Carolina General Statute Section 143-215.3D(e), written approval for a 401 Water Quality General Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.

**Activities included in this General Certification and below the thresholds listed above *do not* require written approval from the Division of Water Quality as long as they comply with the Conditions of Certification listed below. If any of these Conditions cannot be met, written approval from the Division is required.**

# Water Quality Certification N<sup>o</sup>. 3687 863

## Conditions of Certification:

### 1. No Impacts Beyond Those Authorized for this General Certification

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the thresholds established for use of this General Certification, or beyond the footprint of the impacts authorized in the written approval, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

### 2. Standard Erosion and Sediment Control Practices

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:

- a. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- b. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times, except for publicly funded linear transportation projects when materials can be accessed offsite in a timely manner.
- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.

### 3. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters outside of the permitted impact areas without prior approval from the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then the design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

### 4. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If the

activity is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at [http://h2o.enr.state.nc.us/su/Forms\\_Documents.htm](http://h2o.enr.state.nc.us/su/Forms_Documents.htm).

NCDOT shall be required to be in full compliance with the conditions related to construction activities within the most recent version of their individual NPDES (NCS000250) stormwater permit.

#### 5. Work in the Dry

All work in or adjacent to stream waters shall be conducted in a dry work area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. Exceptions to this condition require submittal to, and approval by, the Division.

#### 6. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to protect trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be obeyed. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS personnel.

#### 7. Riparian Area Protection Rules (Buffer Rules)

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman, Catawba (or any other basin with buffer rules), shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250, and .0243, and shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. All riparian area protection rule requirements, including diffuse flow requirements, must be met.

#### 8. Water Supply Watershed Buffers

The 100-foot wide (high-density development) or the 30-foot wide vegetative buffer (all other development) must be maintained adjacent to all perennial waters except for allowances as provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

9. Placement of Culverts and Other Structures in Waters and Wetlands

The application must include construction plans with cross-sectional details in order to indicate that the current stability of the stream will be maintained or enhanced (i.e., not result in head cuts).

Culverts required for this project shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal profile) must be maintained above and below locations of each culvert. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life, unless otherwise justified and approved by the Division.

Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

Any rip rap required for normal pipe burial and stabilization shall be buried such that the original stream elevation is restored and maintained.

The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of rip-rap or other bank hardening methods.

10. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.
11. Applications for riprap groins proposed in accordance with 15A NCAC 07H 1401 (NC Division of Coastal Management General Permit for construction of Wooden and Riprap Groins in Estuarine and Public Trust Waters) must meet all the specific conditions for design and construction specified in 15A NCAC 07H 1405.

12. Temporary Fills and/or Access Roads

All temporary fill and culverts shall be removed and the impacted area returned to the original grade, including each stream's original cross sectional dimensions, plan form pattern, and longitudinal bed and bed profile after construction is complete or within two (2) months of the establishment of the crossing, whichever is sooner, and the various sites shall be stabilized with natural woody vegetation (except for the maintenance areas of permanent utility crossings) and restored to prevent erosion. If the crossings are not completely removed and restored as described above within the specified time above, then written approval from the Division must be obtained to modify this condition.

# Water Quality Certification N<sup>o</sup>. 3687- 866

13. For activities requiring written approval, additional site-specific conditions may be added to the approval letter in order to ensure compliance with all applicable water quality and effluent standards.

\* 14. Certificate of Completion

When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.

\* 15. If an environmental document is required under NEPA or SEPA, then this General Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.

16. This General Certification shall expire three (3) years from the date of issuance of the written approval or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits. In accordance with General Statute 136-44.7B, certifications issued to the NCDOT shall expire only upon expiration of the federal 404 Permit. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification. If the construction process for approved activities will overlap the expiration and renewal date of the corresponding 404 Permit and the Corps allows for continued use of the 404 Permit, then the General Certification shall also remain in effect without requiring re-application and re-approval to use this Certification for the specific impacts already approved.

17 The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this General Certification for the project and may result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity if it is determined that the project is likely to have a significant adverse effect upon water quality, including state or federally listed endangered or threatened aquatic species, or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

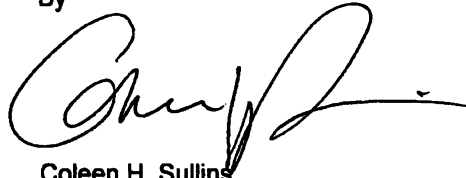
Water Quality Certification N<sup>o</sup>. 3687

867

Effective date: November 1, 2007

DIVISION OF WATER QUALITY

By



Coleen H. Sullins

Director

*History Note: Water Quality Certification Number 3687 replaces Water Quality Certification Number 3376 issued on March 18, 2002, Water Quality Certification Number 3494 issued December 31, 2004, and Water Quality Certification Number 3624 issued March 2007. This General Certification is rescinded when the Corps of Engineers re-authorizes any of these Nationwide or Regional Permits or when deemed appropriate by the Director of the Division of Water Quality.*

# Water Quality Certification N<sup>o</sup>. 3819

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE  
FOR U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT  
NUMBERS 12 (UTILITY LINE ACTIVITIES) AND 47 (PIPELINE SAFETY PROGRAM  
DESIGNATED TIME SENSITIVE INSPECTIONS AND REPAIRS),  
AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

Water Quality Certification Number 3819 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 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and wetland areas as described in 33 CFR 330 Appendix A (B) (12) and Nationwide Permit No. 47 of the Corps of Engineers regulations including any fill activity for utility line backfill and bedding, and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

- \* **Permanent impacts to any wetlands and/or waters, including streams, under this General Certification requires application to, and approval from, the Division of Water Quality (the "Division").**
  - \* **Temporary impacts covered by this General Certification do not require written approval from the Division as long as they comply with the Conditions listed below. *Written approval is required if the maintenance corridor is greater than 15 feet wide. Gas pipelines may have a maintenance corridor wider than fifteen feet if mitigation is provided for these additional wetland fills.***
- If any of these Conditions cannot be met, or if the activities are associated with, or in response to a Notice of Violation or an enforcement action initiated by the Division of Water Quality or the Division of Land Resources, then written approval from the Division is required to use this Certification. Activities that are located within river basins with Riparian Area Protection Rules (Buffer Rules) require written approval unless listed in the Table of Uses as "EXEMPT".**
- \* **In accordance with North Carolina General Statute Section 143-215.3D(e), any requirement for written approval for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.**

**Conditions of Certification:**

**1 No Impacts Beyond Thresholds that Qualify for this Certification**

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the thresholds established for use of this Certification, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

**2. Standard Erosion and Sediment Control Practices**

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:



- a. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
  - b. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
  - c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971
  - d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
  - e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNA's), Trout (Tr), SA, WS-I, WS-II, High Quality (HQP), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.
3. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters without approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

4. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at [http://h2o.enr.state.nc.us/su/Forms\\_Documents.htm](http://h2o.enr.state.nc.us/su/Forms_Documents.htm).

5. Construction Moratoriums and Coordination

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to protect trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

#### 6. Work in the Dry

All work in or adjacent to stream waters shall be conducted in a dry work area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water.

#### 7 Riparian Area Protection (Buffer) Rule

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not), within the Neuse, Tar-Pamlico, Catawba, Randleman, and Jordan (or any other basin with buffer rules), shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250, .0243, and .0267, and shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. All buffer rule requirements, including diffuse flow requirements, must be met.

#### 8. Water Supply Watershed Buffers

The 30-foot wide vegetative buffer (low-density development) or the 100-foot wide (high-density development) must be maintained adjacent to all perennial waters except for allowances as provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

9. Any rip rap required for normal pipe burial and stabilization shall be buried such that the original stream elevation is restored and maintained.

#### 10. Compensatory Mitigation

In accordance with 15A NCAC 2H .0506 (h), compensatory mitigation may be required for losses of 150 linear feet or more of streams and/or one (1) acre or more of wetlands. For linear, public transportation projects, impacts equal to or exceeding 150 linear feet per stream shall require mitigation.

Compensatory stream mitigation shall be required at a 1:1 ratio for all perennial and intermittent stream impacts.

Buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "Allowable with Mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules.

A determination of buffer, wetland and stream mitigation requirements shall be made by the Division for any application for this Certification. Design and monitoring protocols shall follow the US Army Corps of Engineers Wilmington District *Stream Mitigation Guidelines* (April 2003), or its subsequent updates. Compensatory mitigation plans shall be submitted for written Division approval as required in those protocols. Alternatively, the Division will accept payment into an in-lieu fee program or credit purchase from a mitigation bank.

Finally, the mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the public. Proof of payment to an in-lieu fee program or mitigation bank must be provided to the Division to satisfy this requirement.

- \* 11. For all activities requiring re-alignment of streams, a stream relocation plan must be included for written Division approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel (or a stable reference reach if the existing channel is unstable), to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30-foot wide wooded and an adjacent 20-foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir fiber and seedling establishment is allowable. Rip-rap, A-Jacks, concrete, gabions or other hard structures may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage. Please note that if the stream relocation is conducted as a stream restoration as defined in the US Army Corps of Engineers Wilmington District, April 2003 *Stream Mitigation Guidelines* (or its subsequent updates), the restored length can be used as compensatory mitigation for the impacts resulting from the relocation.
12. For sewer lines, the edge of the construction corridor shall not be installed parallel to and closer than 10 feet from top of bank to a stream except for the following classifications; 50 feet to waters classified as WS (except WS-IV or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands; or 100 feet to private or public water supply sources or waters classified as WS-I waters or Class I or Class II impounded reservoirs used as a source of drinking water in accordance with 15A NCAC 02T .0305(f).
- Utility lines shall not cross a stream channel at other than a near-perpendicular direction (i.e., stream channel crossings shall not be at an angle of less than 75 degrees or more than 105 degrees to the stream bank).
13. Any wastewater line that crosses any stream shown on the most recent version of the 1:24,000 USGS topographic map or NRCS (SCS) County Soil Survey as permanent or intermittent shall be installed either a) with no joints connected within the footprint of a stream channel or within two (2) feet of the stream banks in the case of plastic or PVC pipes or b) with properly bedded and supported ductile iron. *Otherwise, written approval from DWQ is required.*
14. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.
15. Herbicides can be applied in wetlands or other waters only when applied by a certified applicator, and in strict accordance with product labeling.
16. Placement of rip-rap shall be restricted to the stream bottom and banks directly impacted by the placement of the utility line. Rip-rap shall only be used below the normal high water level. The stream berm must be restored to the original contour after construction. Placement of rip-rap or other materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the crossing.
17. Annual native species suitable for wet locations shall be planted and established within jurisdictional wetlands for soil and erosion control. Non-native perennials such as fescue are prohibited.
18. A one-time application of fertilizer to re-establish vegetation is allowed, but is restricted to no closer than 10 feet (3 meters) from top of bank of streams. Any fertilizer application must comply with all other Federal, State and Local regulations.

19. The construction corridor (including access roads and stockpiling of materials) is limited to 40 feet (12.2 meters) in width in wetlands and across stream channels and must be minimized to the maximum extent practicable.
20. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 15 feet in width except at manhole locations. A 15-foot by 15-foot perpendicular vehicle turnaround must be spaced at least 500 feet (152.4 meters) apart.
21. An anti-seep collar shall be placed at the downstream (utility line gradient) wetland boundary and every 150 feet (45.7 meters) up the gradient until the utility exits the wetland for buried utility lines. Anti-seep collars may be constructed with class B concrete, compacted clay, PVC pipe, or metal collars. Wetland crossings that are directionally drilled, and perpendicular wetland crossings that are open cut and less than 150 feet (45.7 meters) long do not require anti-seep collars. The compacted clay shall have a specific infiltration of 1 X 10<sup>-5</sup> cm/sec or less. A section and plan view diagram is attached for the anti-seep collars.

The following specifications shall apply to class B concrete:

- a) Minimum cement content, sacks per cubic yard with rounded course aggregate 5.0
  - b) Minimum cement content, sacks per cubic yard with angular course aggregate 5.5
  - c) Maximum water-cement ratio gallons per sack 6.8
  - d) Slump range 2" to 4"
  - e) Minimum strength - 28 day psi 2,500
22. The applicant shall have a specific plan for restoring wetland contours. Any excess material will be removed to a high ground disposal area.
  - \* 23. If an environmental document is required under NEPA or SEPA, then this General Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.
  24. In the twenty (20) coastal counties, the appropriate DWQ Regional Office must be contacted to determine if Coastal Stormwater Regulations will be required.
  25. This General Certification does not relieve the applicant of the responsibility to obtain all other required Federal, State or local approvals.
  - \* 26. When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.
  27. This General Certification shall expire three (3) years from the date of issuance of the written approval letter or on the same day as the expiration date of the corresponding Nationwide Permit 12 or Nationwide Permit 47. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification. If the construction process for approved activities will overlap the expiration and renewal date of the corresponding 404 Permit and the Corps allows for continued use of the 404 Permit, then the General Certification shall also remain in effect without requiring re-application and re-approval to use this Certification for the specific impacts already approved.

28. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this General Certification for the project and may also result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for individual certification for any project in this category of activity, if it is determined that the project is likely to have a significant adverse effect upon water quality including state or federally listed endangered or threatened aquatic species or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: March 19, 2010

DIVISION OF WATER QUALITY

By

Coleen H. Sullins

Director

*History Note: Water Quality General Certification (WQC) Number 3819 issued on March 19, 2010 replaces WQC Number 3699 issued on November 1, 2007, WQC Number 3625 issued on March 19, 2007, WQC Number 3374 issued on March 18, 2002, WQC Number 3288 issued on June 1, 2000, WQC Number 3101 issued on February 11, 1997, WQC Number 3022 issued on September 6, 1995 and WQC Number 2664 issued on January 21, 1992. This General Certification is rescinded when the Corps of Engineers reauthorizes Nationwide 12 or when deemed appropriate by the Director of the Division of Water Quality.*



CAMA /  DREDGE & FILL  
**GENERAL PERMIT**

New  Modification  Complete Reissue  Partial Reissue

874

No 55251

Previous permit # \_\_\_\_\_

Date previous permit issued \_\_\_\_\_

As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC \_\_\_\_\_

07H 1600

Rules attached.

Applicant Name NCDOT

Project Location: County Parquotank & Camden

Address 1598 Mail Service Center

Street Address/ State Road/ Lot #(s) US 158,

City Raleigh State NC ZIP 27699

adjacent to Bridge #19

Phone # (919) 431-2000 Fax # ( ) \_\_\_\_\_

Subdivision \_\_\_\_\_

Authorized Agent Chris Rivenbark

City Elizabeth City, NC ZIP 27909

Affected  CW  NEW  PTA  YES  PTS

Phone # ( ) \_\_\_\_\_ River Basin Parquotank

AEC(s):  OEA  HHF  IH  UBA  N/A

Adj. Wtr. Body Parquotank River (nat/man/unkn)

PWS: \_\_\_\_\_  FC: \_\_\_\_\_

Closest Maj. Wtr. Body Parquotank River

ORW: yes /  no PNA yes /  no Crit.Hab. yes / no

Type of Project/ Activity Construct underground utility lines (water, sanitary sewer, power, telephone, natural gas, cable-TV) adjacent to Bridge #19. (Scale: N/A )

Pier (dock) length	_____
Platform(s)	_____
Finger pier(s)	_____
Groin length	_____
number	_____
Bulkhead/ Riprap length	_____
avg distance offshore	_____
max distance offshore	_____
Basin, channel	_____
cubic yards	_____
Boat ramp	_____
Boathouse/ Boatlift	_____
Beach Bulldozing	_____
Other	<u>1 directional bore for power and cable TV</u> <u>1 directional bore for telephone</u>
Shoreline Length	<u>560'</u>
SAV: not sure	yes <input checked="" type="radio"/> no <input type="radio"/>
Sandbags: not sure	yes <input checked="" type="radio"/> no <input type="radio"/>
Moratorium: n/a	yes <input checked="" type="radio"/> no <input type="radio"/>
Photos:	<input checked="" type="radio"/> yes <input type="radio"/> no
Waiver Attached:	yes <input checked="" type="radio"/> no <input type="radio"/>

Utility Plans Attached and Incorporated into Permit.

A building permit may be required by: Elizabeth City/Parquotank County/Camden County  See note on back regarding River Basin rules.

Notes/ Special Conditions 1 Subaqueous lines must be installed at a minimum of 6 feet below the bottom contour of the adjacent stream. 2 BMPs shall be implemented to prevent sediment from entering adjacent wetlands and waters of the state. 3 Emission law 2009-406 extends the expiration

Date of this permit to 1-1-13.

Agent or Applicant Elizabeth L. Lusk for Gregory J. Thope, MD Stephen Lane

Permit Officer's Signature \_\_\_\_\_

E. L. Lusk

10-28-10 1-1-13

\*\* Please read compliance statement on back of permit \*\*  
#400 WBS# 35742-1-1

Issuing Date Elizabeth City Expiration Date X102116A

Application Fee(s) \_\_\_\_\_ Check # \_\_\_\_\_

Local Planning Jurisdiction \_\_\_\_\_ Rover File Name \_\_\_\_\_

**Statement of Compliance and Consistency**

This permit is subject to compliance with this application, site drawing and attached general and specific conditions. Any violation of these terms may subject the permittee to a fine or criminal or civil action; and may cause the permit to become null and void.

This permit must be on the project site and accessible to the permit officer when the project is inspected for compliance. The applicant certifies by signing this permit that 1) prior to undertaking any activities authorized by this permit, the applicant will confer with appropriate local authorities to confirm that this project is consistent with the local land use plan and all local ordinances, and 2) a written statement or certified mail return receipt has been obtained from the adjacent riparian landowner(s).

The State of North Carolina and the Division of Coastal Management, in issuing this permit under the best available information and belief, certify that this project is consistent with the North Carolina Coastal Management Program.

**River Basin Rules Applicable To Your Project:**

Tar - Pamlico River Basin Buffer Rules

Other: \_\_\_\_\_

Neuse River Basin Buffer Rules

If indicated on front of permit, your project is subject to the Environmental Management Commission's Buffer Rules for the River Basin checked above due to its location within that River Basin. These buffer rules are enforced by the NC Division of Water Quality. Contact the Division of Water Quality at the Washington Regional Office (252-946-6481) or the Wilmington Regional Office (910-796-7215) for more information on how to comply with these buffer rules.

**Division of Coastal Management Offices****Raleigh Office**

Mailing Address:  
1638 Mail Service Center  
Raleigh, NC 27699-1638

Location:  
2728 Capital Blvd.  
Raleigh, NC 27604  
919-733-2293  
Fax: 919-733-1495

**Morehead City Headquarters**

400 Commerce Ave  
Morehead City, NC 28557  
252-808-2808/ 1-888-4RCOAST  
Fax: 252-247-3330

(Serves: Carteret, Craven, Onslow -above  
New River Inlet- and Pamlico Counties)

**Elizabeth City District**

1367 U.S. 17 South  
Elizabeth City, NC 27909  
252-264-3901  
Fax: 252-264-3723

(Serves: Camden, Chowan, Currituck,  
Dare, Gates, Pasquotank and Perquimans  
Counties)

**Washington District**

943 Washington Square Mall  
Washington, NC 27889  
252-946-6481  
Fax: 252-948-0478

(Serves: Beaufort, Bertie, Hertford, Hyde,  
Tyrrell and Washington Counties)

**Wilmington District**

127 Cardinal Drive Ext.  
Wilmington, NC 28405-3845  
910-796-7215  
Fax: 910-395-3964

(Serves: Brunswick, New Hanover,  
Onslow -below New River Inlet- and  
Pender Counties)

**SECTION .1600 - GENERAL PERMIT FOR THE INSTALLATION OF AERIAL AND SUBAQUEOUS  
UTILITY LINES WITH ATTENDANT STRUCTURES IN COASTAL WETLANDS: ESTUARINE WATERS:  
PUBLIC TRUST WATERS AND ESTUARINE SHORELINES**

**15A NCAC 07H .1601 PURPOSE**

A permit under this Section shall allow for the installation of utility lines both aerially and subaqueously in the coastal wetland, estuarine water, public trust areas and estuarine and public trust shoreline AECs according to the authority provided in Subchapter 7J .1100 and according rules in this Section. This general permit shall not apply to the ocean hazard AECs.

*History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1,  
Eff. March 1, 1985;  
Amended Eff. August 1, 2000; August 1, 1998.*

**15A NCAC 07H .1602 APPROVAL PROCEDURES**

(a) The applicant must contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant must provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response will be interpreted as no objection. DCM staff will review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff finds that the comments are worthy of more in-depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the utility line alignment can be appropriately marked. Written authorization to proceed with the proposed development will be issued during this visit. Construction on the utility line must begin within twelve months of this visit or the general authorization expires.

*History Note: Authority G.S. 113A-107(a)(b); 113A-113(b); 113A-118.1, 113A-229(c1);  
Eff. March 1, 1985;  
Amended Eff. January 1, 1990.*

**15A NCAC 07H .1603 PERMIT FEE**

The applicant shall pay a permit fee of four hundred dollars (\$400.00) by check or money order payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1, 113A-119; 113A-119.1,  
Eff. March 1, 1985;  
Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991.*

**15A NCAC 07H .1604 GENERAL CONDITIONS**

(a) Utility lines for the purpose of this general permit or any pipes or pipelines for the transportation of potable water, domestic sanitary sewage, natural gas, and any cable, line, or wire for the transmission, for any purpose, of electrical energy, telephone and telegraph messages, and radio and television communication.

(b) There must be no resultant change in preconstruction bottom contours. Authorized fill includes only that necessary to backfill or bed the utility line. Any excess material must be removed to an upland disposal area.

(c) The utility line crossing will not adversely affect a public water supply intake.



- (d) The utility line route or construction method will not disrupt the movement of those species of aquatic life indigenous to the waterbody.
- (e) Individuals shall allow authorized representatives of the Department of Environment, Health, and Natural Resources to make periodic inspections at any time necessary to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.
- (f) This general permit will not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality; air quality; coastal wetlands; cultural or historic sites; wildlife; fisheries resources; or public trust rights.
- (g) This permit does not eliminate the need to obtain any other required state, local, or federal authorization, nor, to abide by regulations adopted by any federal or other state agency.
- (h) Development carried out under this permit must be consistent with all local requirements, AEC guidelines, and local Land Use Plans current at the time of authorization.

*History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*  
*Eff. March 1, 1985;*  
*Amended Eff. May 1, 1990;*  
*RRC Objection due to ambiguity Eff. May 19, 1994;*  
*Amended Eff. August 1, 1998; July 1, 1994.*

#### **15A NCAC 07H .1605 SPECIFIC CONDITIONS**

Proposed utility line installations must meet each of the following specific conditions to be eligible for authorization by this general permit:

- (1) All domestic sanitary sewer line requests must be accompanied by a statement of prior approval from the NC Division Water Quality.
- (2) All spoils which are permanently removed must be placed on a high ground disposal site and stabilized so as not to return to waters, marsh or other wetlands.
- (3) Any additional backfill material required must be clean sand or rock free of organic matter.
- (4) Cuts through wetlands must be minimized.
- (5) Finished grades or subaqueous or wetland crossing must be returned to preproject contours.
- (6) There can be no work within any productive shellfish beds.
- (7) No excavation or filling activities will be permitted between April 1 and September 30 of any year within any designated primary nursery area.
- (8) Subaqueous lines must be placed at a depth of six feet below the project depth of federal projects. In other areas they will be installed at a minimum depth of two feet below the bottom contour.
- (9) The minimum clearance for aerial communication lines or any lines not transmitting electricity will be 10' above the clearance required for bridges in the vicinity.
- (10) The minimum clearance for aerial electrical transmission lines shall be consistent with those established by the US Army Corps of Engineers and US Coast Guard.
- (11) The installation of a utility line on pipe bents or otherwise above the elevation of mean high or mean ordinary water must be of sufficient height to allow for traditional navigation in the water body. Additionally the utility line must not interfere with the waterflow of normal or flood waters.
- (12) Natural gas lines must not exceed 11 inches in diameter.

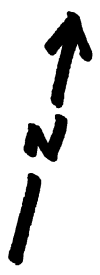
*History Note: Authority G.S. 113-229(c1); 113A-107(a)(b); 113A-113(b); 113A-118.1;*  
*Eff. March 1, 1985;*  
*Amended Eff. August 1, 1998.*

24438  
Utility permit drawings

10/28/10

878

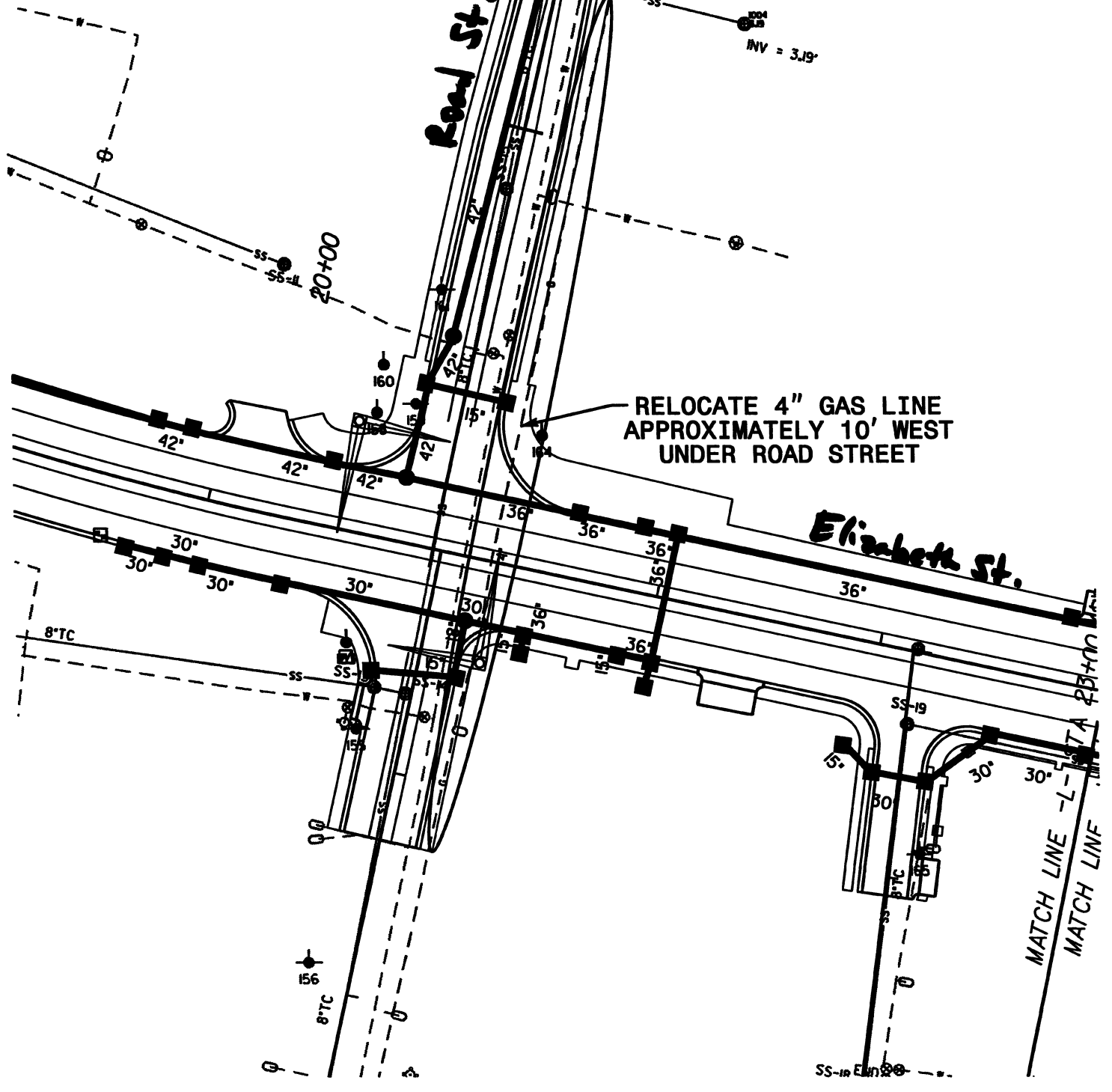
MATCH LINE -YI- 8"50 (SEE SHEET 7)



Road St.

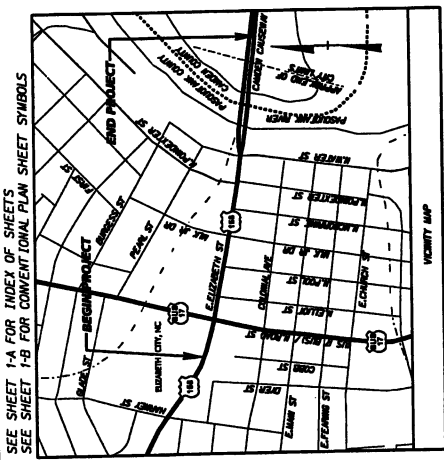
RELOCATE 4" GAS LINE  
APPROXIMATELY 10' WEST  
UNDER ROAD STREET

Elizabeth St.



MATCH LINE -L-  
MATCH LINE

**TIP PROJECT: U-4438**

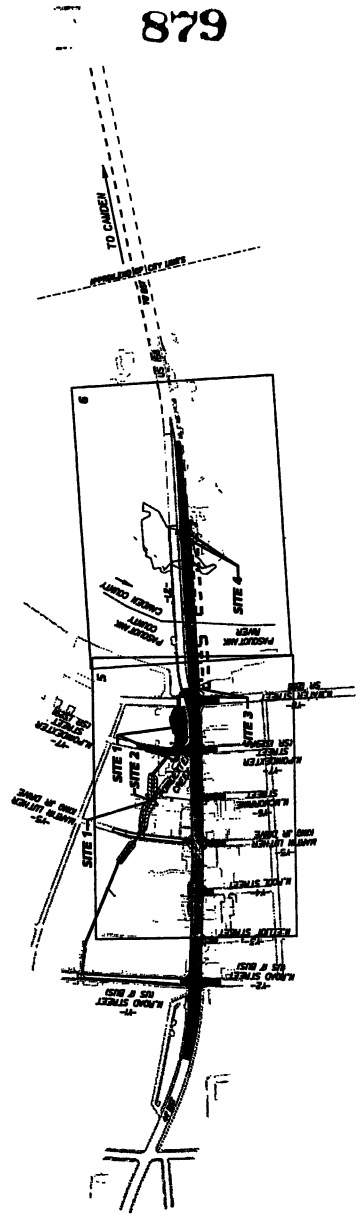


STATE OF NORTH CAROLINA  
DIVISION OF HIGHWAYS  
**PASQUOTANK & CAMDEN COUNTIES**

**LOCATION: US 158 (EAST ELIZABETH STREET) FROM US 17 BUSINESS (NORTH ROAD STREET) TO EAST OF PASQUOTANK RIVER**  
**WEILAND & STREAM IMPACT PACKAGE**

STATE	NC
PROJECT NUMBER	U-4438
DATE	11/11/11
DESIGNER	STW-0158(01)
CHECKER	STW-0158(01)
SCALE	P.E.
DATE	11/11/11
SCALE	1" = 40'
DATE	11/11/11
SCALE	1" = 40'
DATE	11/11/11
SCALE	1" = 40'

Permit Drawing  
Sheet 1 of 8



879

PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION

CLEARING ON THIS PROJECT SHALL BE PERFORMED TO THE LIMITS ESTABLISHED BY METHOD II  
A PORTION OF THIS PROJECT IS WITHIN THE MUNICIPAL BOUNDARIES OF ELIZABETH CITY

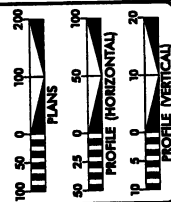
**PROJECT LENGTH**

LENGTH ROADWAY TIP PROJECT U-4438 = 0.447 MILES  
LENGTH STRUCTURE TIP PROJECT U-4438 = 0.159 MILES  
TOTAL LENGTH TIP PROJECT U-4438 = 0.606 MILES

**DESIGN DATA**

ADT 2011 = 12,000 VPD  
ADT 2030 = 18,800 VPD  
DHW = 10%  
D = 55%  
V = 40 MPH  
\* (TST 11% + DUAL 9%)  
CLASS = URBAN ARTERIAL  
REGIONAL TIER

**GRAPHIC SCALES**



**CONTRACT:**

PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION

HYDRAULICS ENGINEER: J.E.

ROADWAY DESIGN ENGINEER: J.E.

REGISTERED PROFESSIONAL ENGINEER

STATE OF NORTH CAROLINA

PLANS PREPARED FOR: **Elizabeth City and Associates, Inc.**

PROJECT MANAGER: **JEFFREY W. MOORE, P.E.**

LETTING DATE: **APRIL 18, 2011**

RIGHT OF WAY DATE: **JULY 16, 2010**

PROJECT NUMBER: **JASON PACE, P.E.**



Name: ELIZABETH CITY  
 Date: 9/18/2007  
 Scale: 1 inch equals 2000 feet

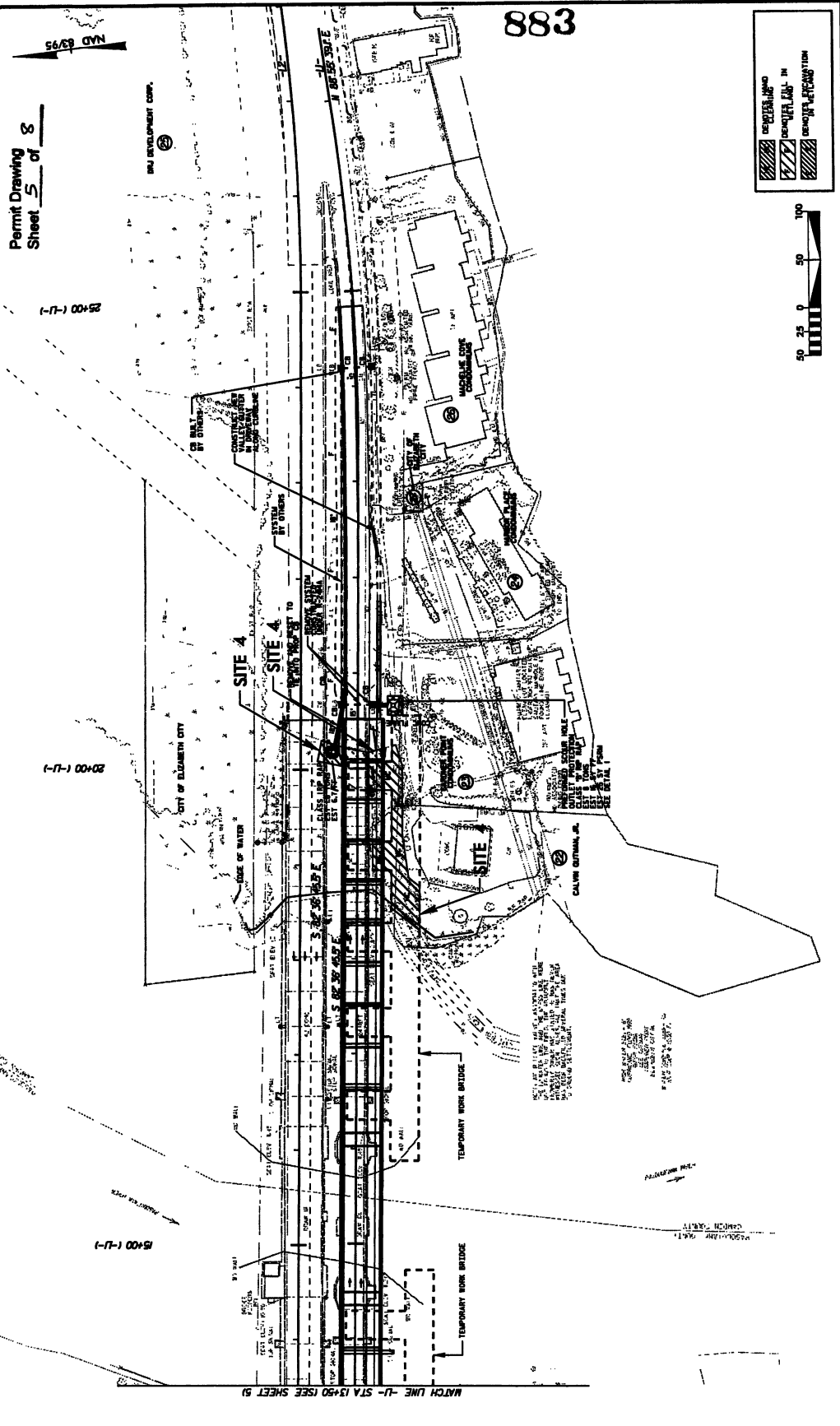
Permit Drawing  
 Sheet 2 of 8

Location: 036° 18' 04.2" N 076° 12' 21.4" W  
 Caption: Figure 3  
 U-4438  
 USGS Quad Map





PROJECT REFERENCE NO. U-443	SHEET NO. 6
DESIGNED BY KIMLEY-HORN AND ASSOCIATES, INC.	DATE MAY 1995
<b>PRELIMINARY PLANS</b> FOR THE CONSTRUCTION OF THE RAILROAD BRIDGE	
KIMLEY-HORN AND ASSOCIATES, INC. 10000 W. 10TH AVENUE DENVER, CO 80202	



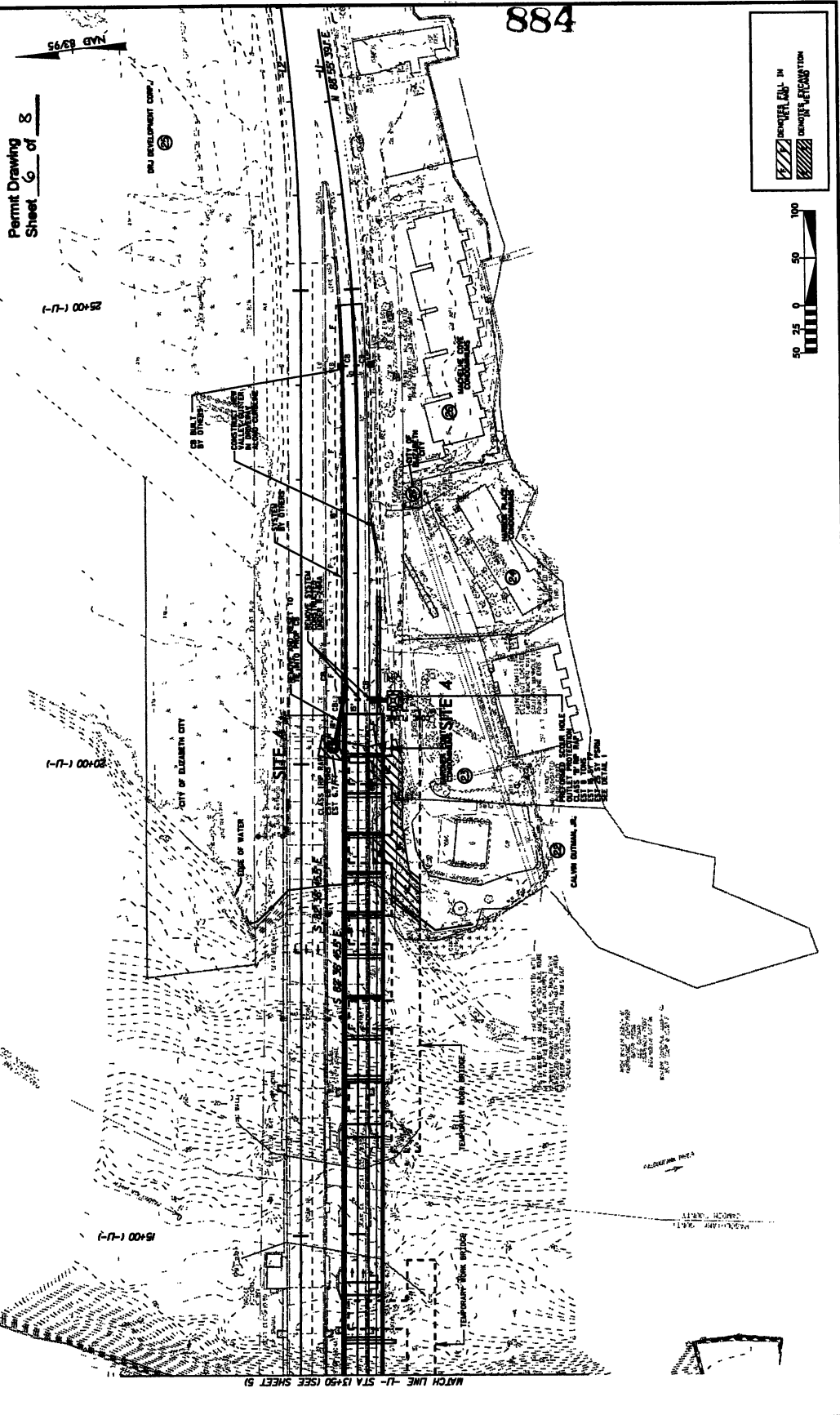
MATCH LINE - U - STA 13+50 (SEE SHEET 5)  
 MATCH LINE (SEE SHEET 7)  
 REVISIONS  
 12/19/2000  
 K:\MPL\_Roadway\010354\Hydro\Rail\Works\_Eng\mwh\Drawings\4438.dwg (m\_2005.dwg)



PROJECT IMPROVEMENT NO. 07-4238  
 SHEET NO. 6  
 CONTRACT NO. 2004-0001  
 CONTRACT DESCRIPTION  
 CONTRACT NUMBER

**PRELIMINARY PLANS**  
 IN ACCORDANCE WITH  
 N.C. DEPARTMENT OF TRANSPORTATION  
 STANDARD SPECIFICATIONS FOR  
 CONSTRUCTION

**Manhattan**  
**DOT Associates, Inc.**  
 P.O. BOX 20000  
 RALEIGH, N.C. 27604-0000  
 PHONE: (919) 873-1000  
 FAX: (919) 873-1001  
 WWW.MANHATTAN-DOT.COM



884

UNQUALIFIED IN  
 QUALIFIED IN



REVISIONS

NO.	DESCRIPTION







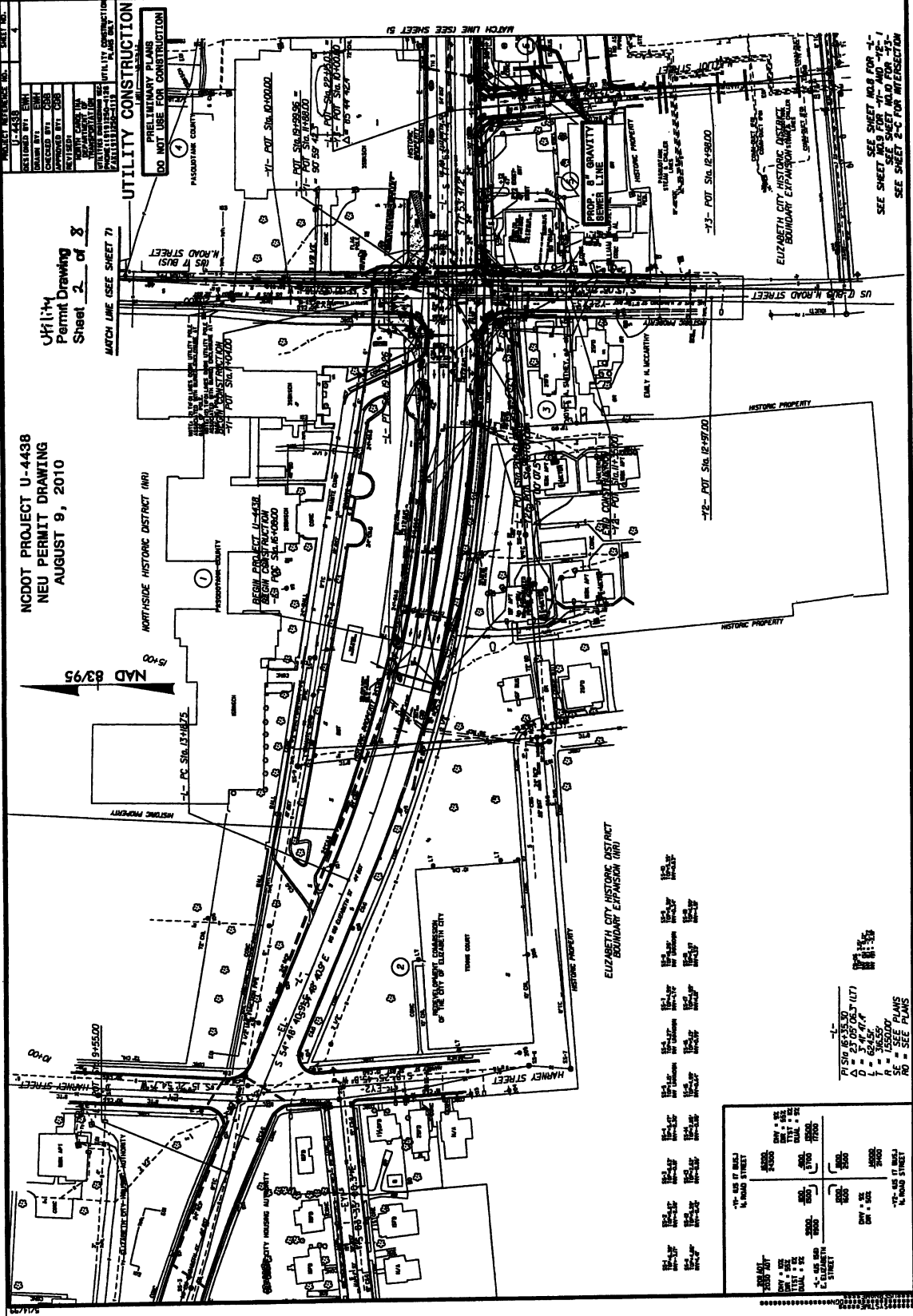


NCDOT PROJECT U-4438  
 NEU PERMIT DRAWING  
 AUGUST 9, 2010

Utility  
 Permit Drawing  
 Sheet 2 of 8

MATCH LINE (SEE SHEET 7)

**UTILITY CONSTRUCTION**  
 PRELIMINARY PLAN  
 DO NOT USE FOR CONSTRUCTION



1" = 40' (11 BILLS) 1/4" = 10' (11 BILLS) 1/8" = 5' (11 BILLS)	1" = 40' (11 BILLS) 1/4" = 10' (11 BILLS) 1/8" = 5' (11 BILLS)	1" = 40' (11 BILLS) 1/4" = 10' (11 BILLS) 1/8" = 5' (11 BILLS)
--	--	--

NAD 83/95  
 1" = 40' (11 BILLS)  
 1/4" = 10' (11 BILLS)  
 1/8" = 5' (11 BILLS)

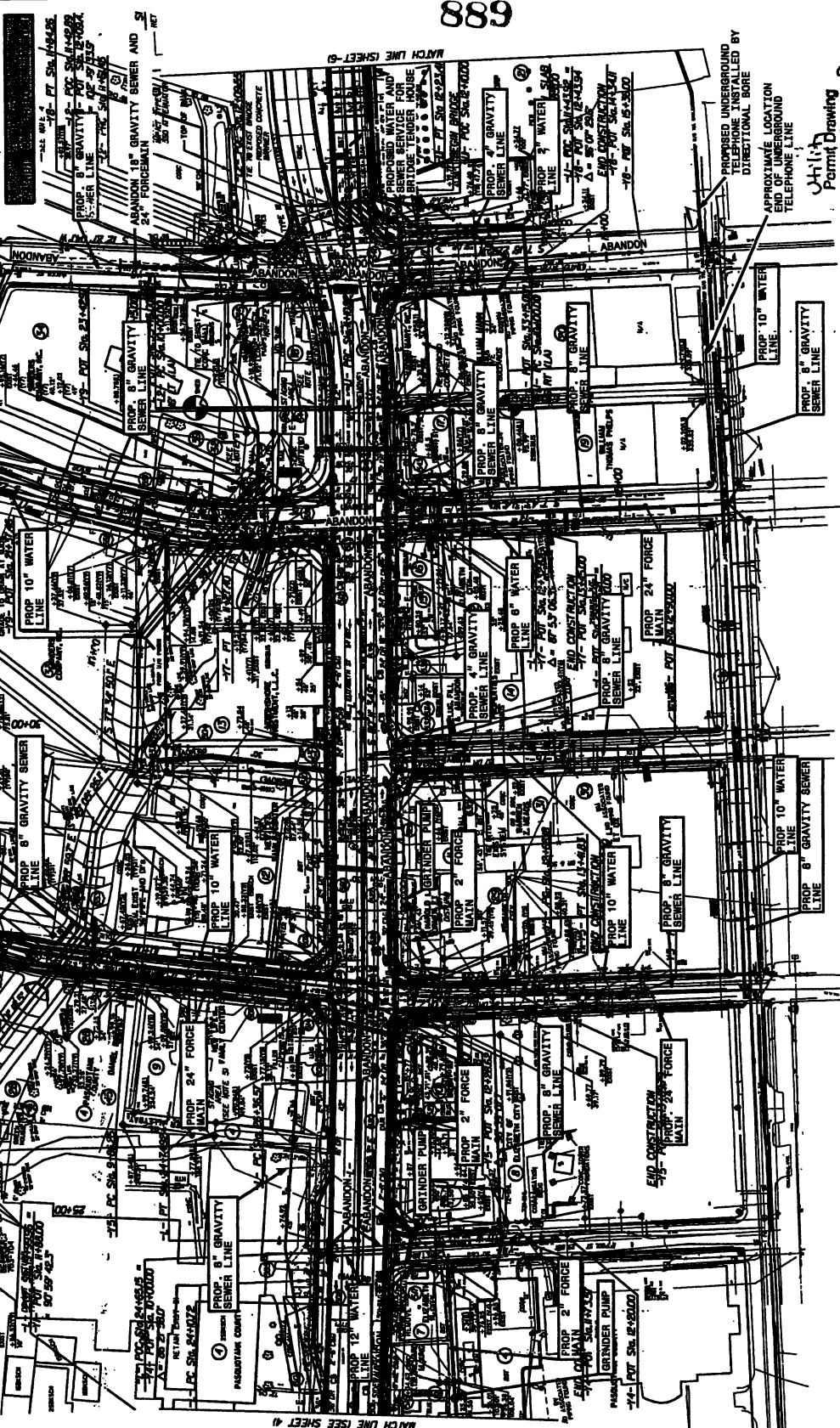
SEE SHEET NO. 8 FOR -1-  
 SEE SHEET NO. 9 FOR -11- AND -12-1  
 SEE SHEET NO. 10 FOR -13-  
 SEE SHEET 2-C FOR INTERSECTION

MATCH LINE (SEE SHEET 5)

PROJECT REFERENCE NO. SHEET NO.  
 U-4253B 5

DESIGNED BY	CHKD BY
CHECKED BY	APPROVED BY
DATE	SCALE
PROJECT NO.	SHEET NO.
DATE	SCALE
PROJECT NO.	SHEET NO.

**UTILITY CONSTRUCTION**



REPORT PROJECT U-4438B  
 NEW PERM DRAWING  
 AUGUST 9, 2010

MATCH LINE (SEE SHEET 7)

MATCH LINE (SEE SHEET 4)

MATCH LINE (SEE SHEET 6)

888

PROPOSED UNDERGROUND  
 DIRECTIONAL BORE  
 APPROXIMATE LOCATION  
 END OF BORE  
 TELEPHONE LINE

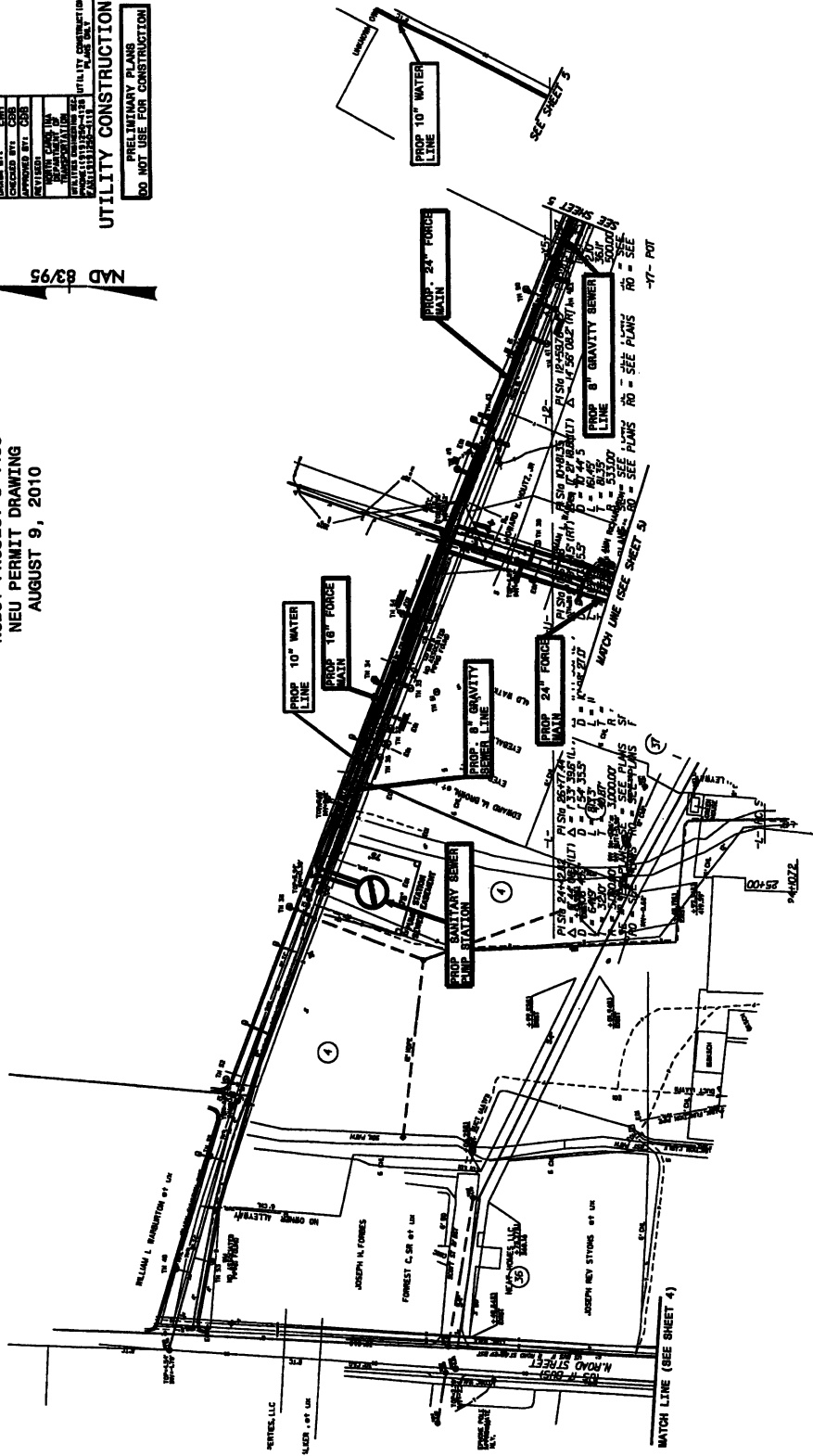
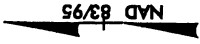
Permit Drawing  
 Sheet 3 of 8



PROJECT REFERENCE NO.	U-4438
DESIGNED BY	ENR
CHECKED BY	ENR
APPROVED BY	ENR
DATE	08/09/10
SCALE	AS SHOWN
PROJECT LOCATION	NEU PERMIT DRAWING
DRAWN BY	ENR
CHECKED BY	ENR
APPROVED BY	ENR
DATE	08/09/10
SCALE	AS SHOWN
PROJECT LOCATION	NEU PERMIT DRAWING
DRAWN BY	ENR
CHECKED BY	ENR
APPROVED BY	ENR
DATE	08/09/10
SCALE	AS SHOWN
PROJECT LOCATION	NEU PERMIT DRAWING

**UTILITY CONSTRUCTION**  
 PRELIMINARY PLANS  
 DO NOT USE FOR CONSTRUCTION

NCDOT PROJECT U-4438  
 NEU PERMIT DRAWING  
 AUGUST 9, 2010



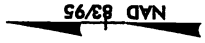
Utility  
 Permit Drawing  
 Sheet 5 of 8

08/09/10

NCDOT PROJECT U-4438  
NEU PERMIT DRAWING  
AUGUST 9, 2010

PROJECT REFERENCE NO.	U-4438	SHEET NO.	8
DESIGNED BY	SWH	CHECKED BY	SWH
APPROVED BY	CSB	DATE	8/11/10
BY	SWH	DATE	8/11/10
BY	CSB	DATE	8/11/10
BY	SWH	DATE	8/11/10
BY	CSB	DATE	8/11/10
BY	SWH	DATE	8/11/10
BY	CSB	DATE	8/11/10
BY	SWH	DATE	8/11/10
BY	CSB	DATE	8/11/10

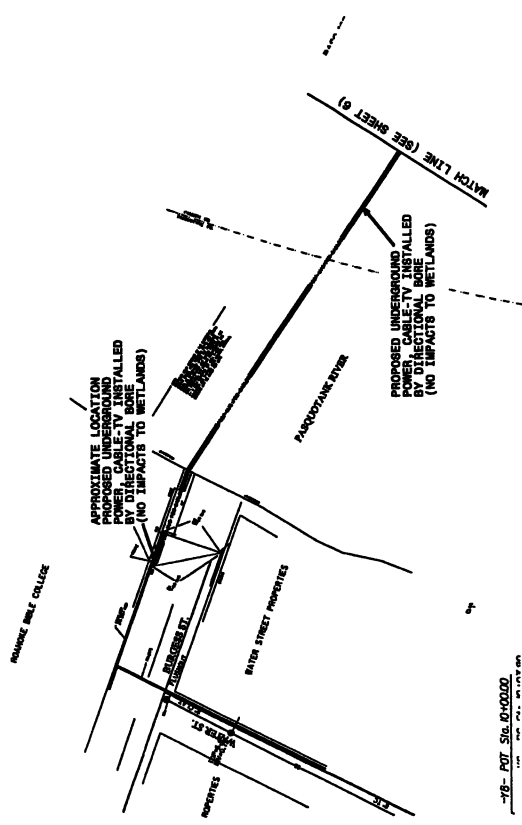
UTILITY CONSTRUCTION  
PRELIMINARY PLANS  
DO NOT USE FOR CONSTRUCTION



Utility  
Permit Drawing  
Sheet 6 of 8

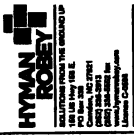
$\frac{1}{2}$ " = 25.0000'  
 P1 S10 25.0000' (UT)  
 Δ = 5.36157'  
 D = 5.36157'  
 L = 3.94141'  
 T = 25.0000'  
 R = 25.0000'

P1 S10 25.0000' (UT)  
 Δ = 7.56157' (UT)  
 D = 7.56157'  
 L = 5.62141'  
 T = 25.0000'  
 R = 25.0000'  
 NS = SEE PLANS  
 NO = SEE PLANS



78-POT S16.0+00.00





DIRECTIONAL  
BORE  
DIAGRAM  
FOR THE  
PASQUOTANK  
RIVER  
BRIDGE  
REPLACEMENT

ELIZABETH  
CITY  
NORTH  
CAROLINA

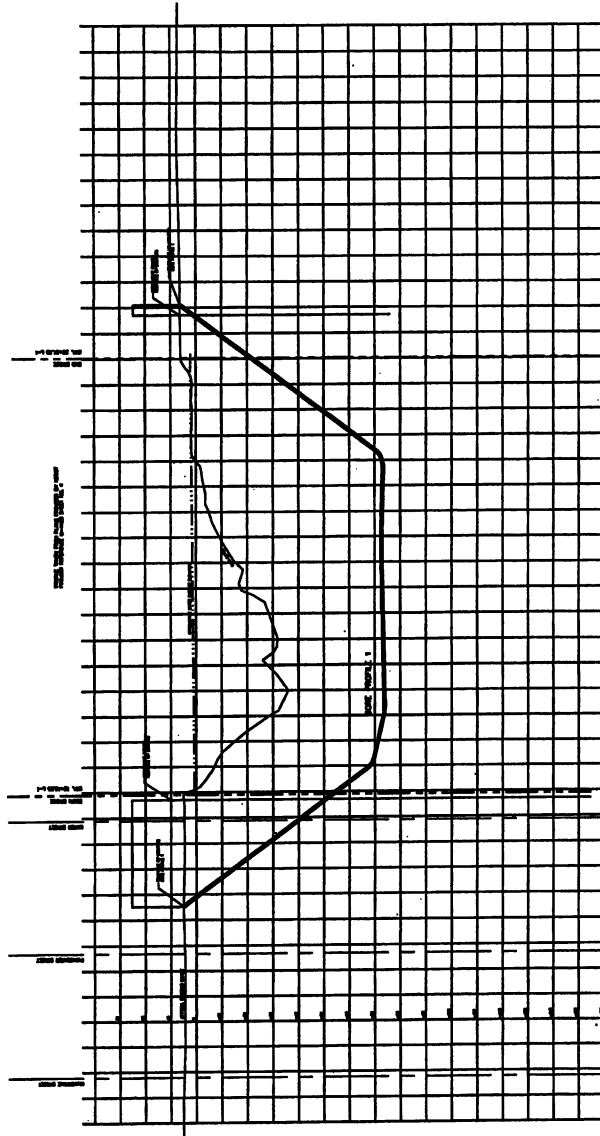
NET PLAN

Project No. 100208  
Drawing No. 100208-100  
Drawing Title  
Drawing Date  
Drawing Scale  
Drawing Status  
Drawing Author  
Drawing Date  
Drawing Description

PROJECT NO.  
DRAWING NO.  
DRAWING TITLE  
DRAWING DATE  
DRAWING SCALE  
DRAWING STATUS  
DRAWING AUTHOR  
DRAWING DATE  
DRAWING DESCRIPTION

BORE PROFILE  
SHT-9

U-4438 NEU PERMIT DRAWING  
PROPOSED TELEPHONE PROFILE  
UNDER PASQUOTANK RIVER  
AUGUST 9, 2010



Utility  
Permit Drawing  
Sheet 7 of 8



DIRECTIONAL  
 BORE  
 DIAGRAM  
 FOR THE  
 CITY OF  
 ELIZABETH  
 CITY  
 ELECTRICAL  
 LINE  
 FOR THE  
 PASQUOTANK  
 RIVER  
 BRIDGE  
 REPLACEMENT

ELIZABETH  
 CITY  
 NORTH  
 CAROLINA

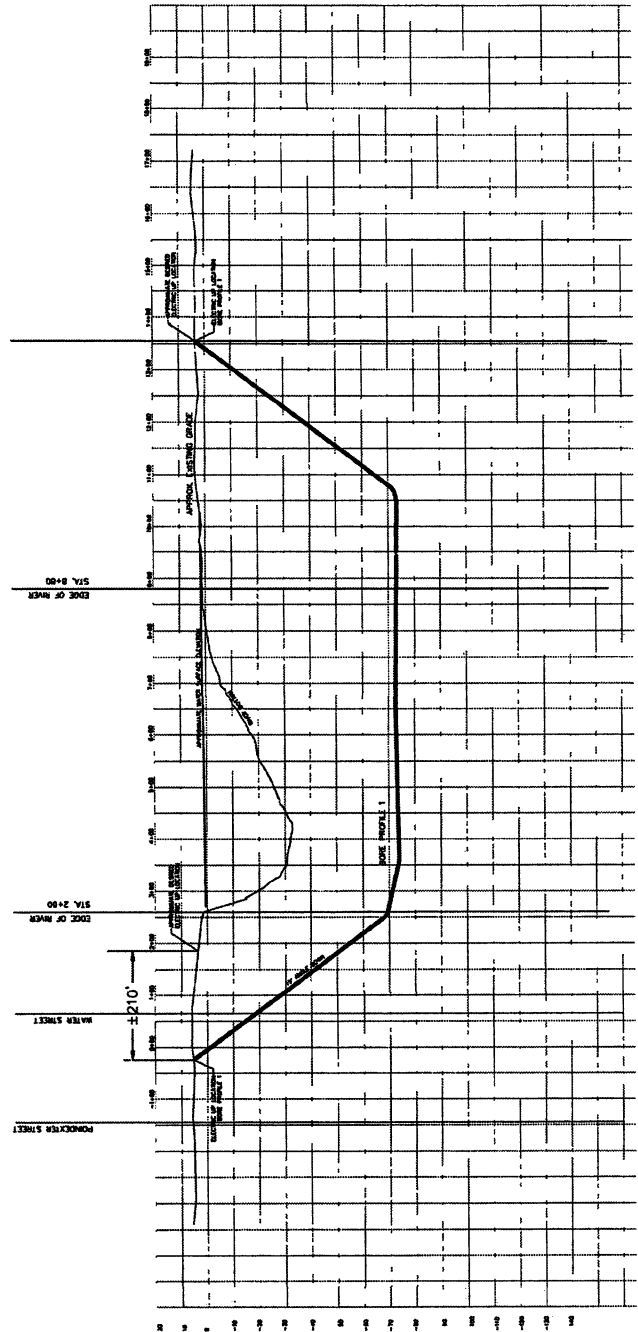
NET PLAN

PROJECT # 100139  
 DRAWING NO. 100139-001  
 DATE 08/09/10  
 CHECKED BY  
 DESIGNED BY  
 DRAWN BY  
 SCALE AS SHOWN  
 SHEET NO. 8  
 SHEET TOTALS

SHEET TITLE  
 BORE PROFILE  
 SHEET NUMBER

SHT-10

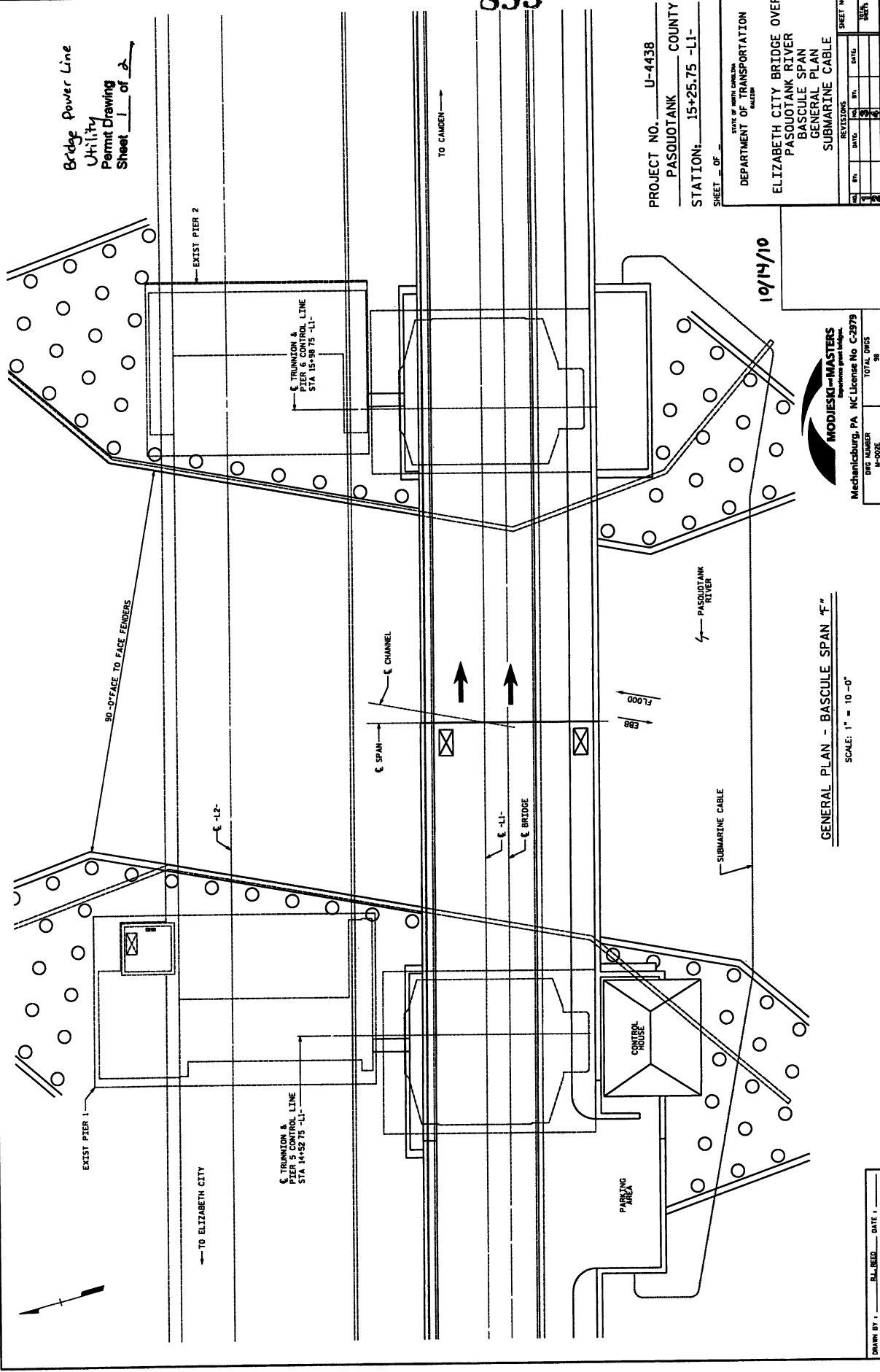
U-4438 NEU PERMIT DRAWING  
 PROPOSED POWER PROFILE  
 UNDER PASQUOTANK RIVER  
 AUGUST 9, 2010  
 PROFILE TAKEN FROM ELEVATIONS PROVIDED BY HCDOT



Utility  
 Permit Drawing  
 Sheet 8 of 8

Bridge Power Line  
Utility  
Permit Drawing  
Sheet 1 of 2

895



PROJECT NO. U-4438  
PASQUOTANK COUNTY  
STATION: 15+25.75 -L1-  
SHEET OF

STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
DIVISION

ELIZABETH CITY BRIDGE OVER  
PASQUOTANK RIVER  
BASCULE SPAN  
GENERAL PLAN  
SUBMARTINE CABLE

REV.	DATE	BY	CHK.	DATE	BY
1					
2					

SHEET NO. 1887

10/14/10

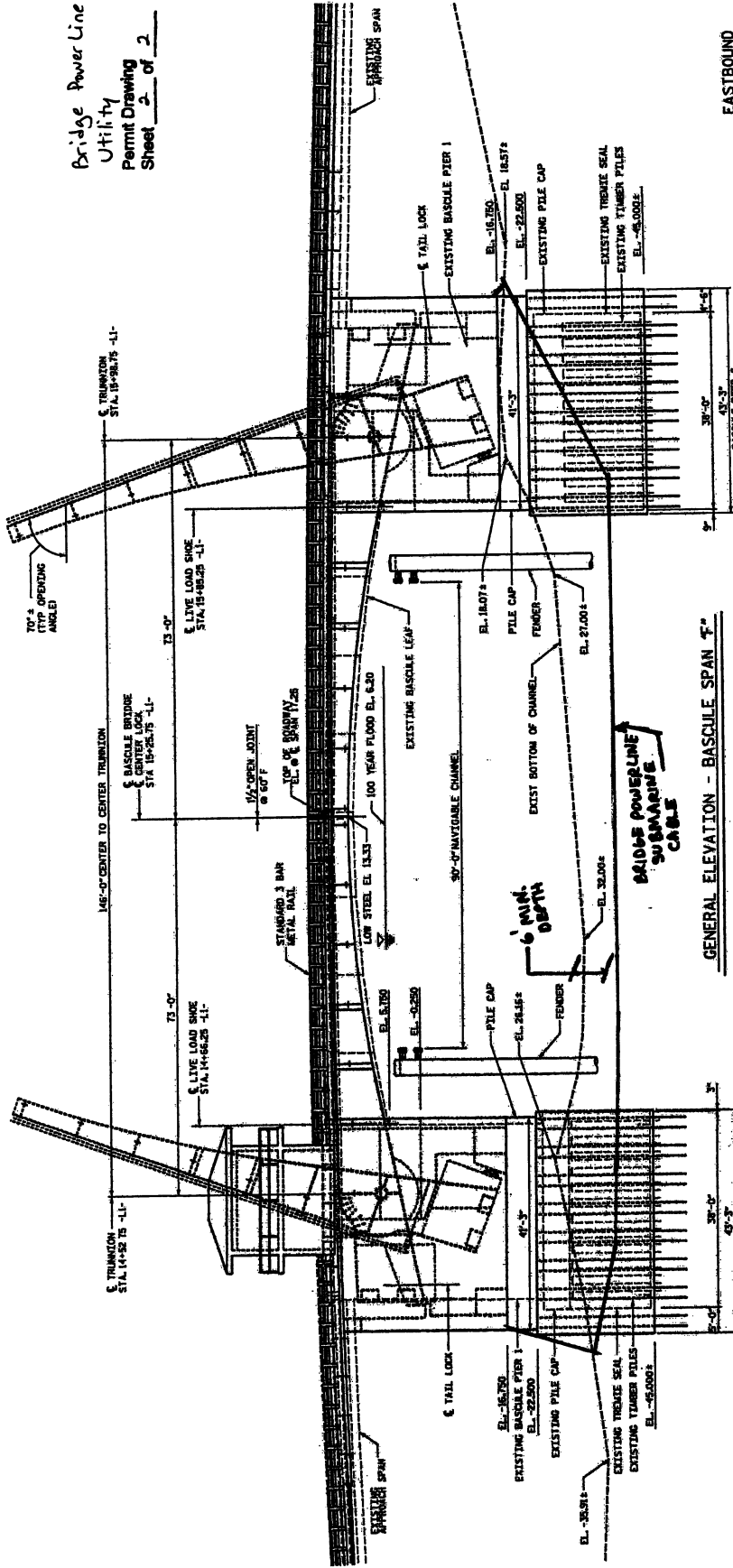
**MODIESKI-MASTERS**  
MECHANICAL CONTRACTORS  
Mechanicsburg, PA NC License No. C-20798  
10733 DAVIS ST.  
MECHANICAL CONTRACTORS

GENERAL PLAN - BASCULE SPAN "F"  
SCALE: 1" = 10'-0"

DRAWN BY: J. B. REDD DATE: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Bridge Power Line  
Utility  
Permit Drawing  
Sheet 2 of 2

896



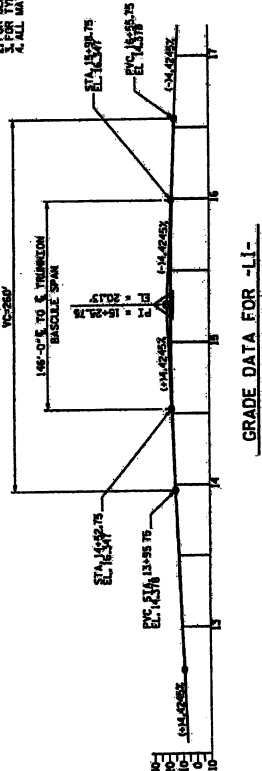
GENERAL ELEVATION - BASCULE SPAN F

NOTES:  
1. FOR GENERAL PLAN OF BASCULE SPAN SEE DWG. S-001E  
2. FOR GENERAL NOTES, SEE DWG. S-001E  
3. FOR TYPICAL CROSS SECTION OF BASCULE SPAN, SEE DWG. X.  
4. ALL MATERIAL NEW UNLESS NOTED OTHERWISE.

PROJECT NO. U-4438  
PASQUOTANK COUNTY  
STATION 15+25.75 -L1-

STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
ELIZABETH CITY BRIDGE OVER  
PASQUOTANK RIVER  
BASCULE SPAN F  
GENERAL ELEVATION - 1

10/15/10



GRADE DATA FOR -L1-



897

New 5-4-11

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

Beverly Eaves Perdue  
Governor

James H. Gregson  
Director

Dee Freeman  
Secretary

April 5, 2011

Gregory J. Thorpe, Ph.D.  
N.C. Department of Transportation  
Project Development and Environmental Analysis Branch  
1598 Mail Service Center  
Raleigh, NC 27699-1638

RE: Letter of Refinement, CAMA Major Development Permit No. 149-10, Replacement of Bridge No. 19 on eastbound US 158 over the Pasquotank River in Pasquotank and Camden Counties, TIP No. U-4438.

Dear Dr. Thorpe:

This letter is in response to the N.C. Department of Transportation's (NCDOT's) letter dated February 21, 2011, including the attached workplan drawing dated as received on February 21, 2011. NCDOT is requesting a refinement of CAMA Major Permit No. 149-10 to install the power line connecting the two movable bridge spans via jetting.

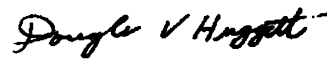
Please be advised that through this **Letter of Refinement**, the Division of Coastal Management (DCM) conveys its determination that the above referenced request is consistent with existing State rules and regulations and is in keeping with the original purpose and intent of CAMA Permit No. 149-10 with the following conditions:

1. In order to protect anadromous fisheries resources, no in-water work shall be conducted from February 15 to June 15 of any year without prior approval of DCM, in consultation with the N.C. Wildlife Resources Commission (WRC) and the N.C. Division of Marine Fisheries (DMF).
2. In accordance with the NCDOT letter dated February 21, 2011, all utility lines shall be placed a minimum of 6 feet below the authorized channel depth of 10 feet for the Pasquotank River or a minimum of 6 feet below the greatest sounding in the area of the crossing, whichever depth is greater per the Section 404 permit conditions.
3. This Letter of Refinement shall be attached to the original of Permit No. 149-10, which was issued on December 22, 2010, as well as the amendment issued on January 6, 2011, and all documents shall be readily available on site when a Division representative inspects the project for compliance.

4. All conditions and stipulations of the active permit remain in force under this Letter of Refinement unless altered herein.
5. This Letter of Refinement does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.

Please contact Stephen Lane or Cathy Brittingham if you have any questions or concerns. Stephen can be reached at (252) 808-2808 or via e-mail at [Stephen.Lane@ncdenr.gov](mailto:Stephen.Lane@ncdenr.gov). Cathy can be reached at (919) 733-2293 x238 or via e-mail at [Cathy.brittingham@ncdenr.gov](mailto:Cathy.brittingham@ncdenr.gov).

Sincerely,

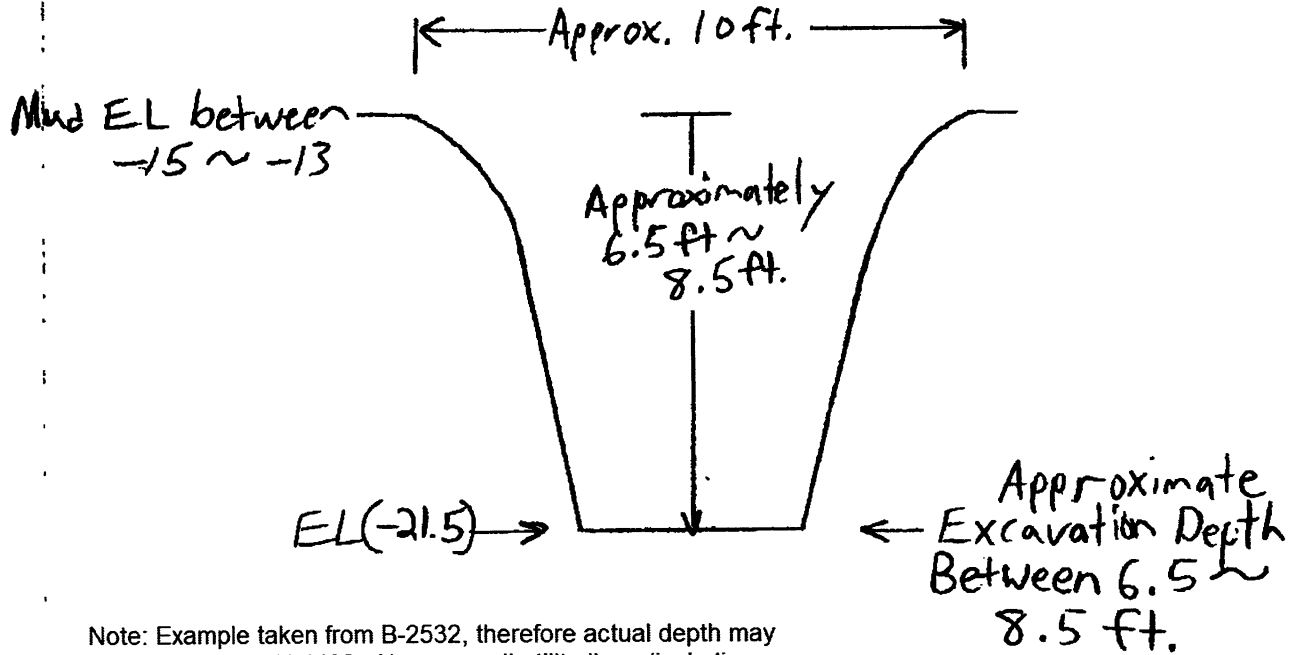


Doug Huggett  
Major Permits and Consistency Coordinator

Cc: Bill Biddlecome, USACE  
Garcy Ward, DWQ  
Travis Wilson, WRC  
Kevin Hart, DMF  
Cathy Brittingham, DCM  
Stephen Lane, DCM

899  
Jetting Excavation

New 5-4-11



Note: Example taken from B-2532, therefore actual depth may vary from that of U-4438. However, all utility lines (including directionally bored) will be buried 6 feet below the authorized channel depth of 10 feet for the Pasquotank River or a minimum of 6 feet below the greatest sounding in the area of the crossing, which ever depth is greater per the Section 404 permit conditions.

U.S. Department of  
Homeland Security

United States  
Coast Guard



900

Commander  
United States Coast Guard  
Fifth Coast Guard District

New 5-4-11

431 Crawford Street  
Portsmouth, Va. 23704-5004  
Staff Symbol: (dpb)  
Phone: (757) 398-6629  
Fax: (757) 398-6334  
Email: Lindsey.R.Middleton@uscg.mil

16591 B  
11 APR 11

Mr. Gregory Thorpe  
Environmental Management Director  
North Carolina Department of Transportation  
Natural Environment Unit  
1598 Mail Service Center  
Raleigh, NC 27699-1598

Dear Mr. Thorpe:

Enclosed is the Coast Guard Bridge Permit 1-11-5 dated April 7, 2011, approving the location and plans of a replacement bridge across Pasquotank River, mile 50.7, at Elizabeth City, Pasquotank and Camden Counties, NC. The following stipulations shall be adhered to:

a. The Contractor shall submit his plan and schedule of operation for approval at least 45 days prior to commencement of work in the waterway. On copy of such information shall be submitted concurrently to both the Resident Engineer, the United States Coast Guard Commander (dpb); Federal Building, 4th Floor, 431 Crawford Street; Portsmouth, VA 23704-5004, and the U. S. Coast Guard Sector North Carolina at 2301 East Fort Macon Road, Atlantic Beach, NC 28512-5633. The information shall include a sketch of the waterway; the bridge; the location of any restrictions that will be placed in the waterway such as barges, anchors, and anchor lines; the location and height above mean high water and detailed description of any scaffolding, or netting; detailed description indicating the placement, type and dimension of any cofferdams if used. The schedule should also include the hours of operation and whether or not the equipment will be removed at night. The contractor shall comply with all provisions of the Navigation Rules International - Inland, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. The Contractor shall submit to the Resident Engineer a copy of all correspondence between the Coast Guard and himself or herself. No deviation from the approved plan and schedule of operation may be made unless the modification has previously been submitted and approved by the Coast Guard.

b. All bridge closures for the existing-to-be-replaced bridge shall be requested in writing to be received at this office at least 15 days in advance. If any closures will exceed three consecutive days, we must be advised at least 30 days in advance so that we may make the appropriate marine notifications. Time restrictions for the navigational traffic shutdown shall be strictly adhered to. Any request for an extension of the closure dates stated above shall be forwarded at least 30 days in advance to the Coast Guard for approval. At no time during the work will the waterway be closed to navigation without prior approval from the Coast Guard. You are required to maintain close and regular contact with Coast Guard Sector North Carolina to keep them informed to activities in waterway at (252) 247-4570.

c. Barges that are used in the waterway during the project must be marked in accordance with Title 33 Code of Federal Regulations, Section 118.95 that outlines temporary marking and lighting requirements. Enclosure (2) outlines temporary marking and lighting requirements for barges and structures not part of the bridge that will be used during construction. If barge or



float anchor lines are used, they must be marked by anchor buoys, which should be lighted. If you should have any questions, regarding lights on the barges or work floats, please contact Mr. John Walters, Chief, Planning and Waterways Management Section, at (757) 398-6230. Floating equipment shall have a radiotelephone capable of operation from its main control station in accordance with Part 26 of Title 33, Code of Federal Regulations and shall be monitored during all periods the floating equipment is on station.

d. During the progress of work, while the channel is in operation, should any material, machinery or equipment be lost, dumped, thrown overboard, sunk or misplaced which may be dangerous to or obstruct navigation, immediate notice shall be given to the Coast Guard and the object removed with the utmost dispatch. Until removal can be effected, the objects shall be properly marked in order to protect navigation. Notice to the Coast Guard shall give a description and location of any such object and the action taken or being taken to protect navigation.

e. Upon completion of the proposed project, an inspection of the waterway bottom shall be performed to insure that all construction waste materials have been completely removed. Certification will be required in writing by a licensed engineer or licensed surveyor that the waterway has not been impaired and all construction related debris has been cleared from it. The certification shall include the actual method used to conduct the inspection. The Contractor shall remove any bridge related debris, resulting from the current or prior work or occurrences, discovered during this survey.

f. Upon completion of the bridgework, a responsible official of the North Carolina Department of Transportation shall verify as-built clearances and a statement attesting to the correctness of the clearances shall be forwarded to this office for record purpose. In lieu of verification by the above listed official, certification by a licensed surveyor or registered professional engineer registered in the State of North Carolina will be accepted.

g. Except as shown on the plans, no dredging, excavation, filling, rip-rap, or other work affecting the bottom, shall be done in conjunction with this work.

h. If during the periods of construction, permanent lighting cannot be maintained operable, the fenders of each pier shall be marked with a battery or power operated quick flashing white light of not less than 60 flashes per minute and visible for a range of 2,000 yards on 90% of the nights of the year. Generally, a lamp of 20-candle power will meet these requirements. If necessary to obtain coverage required, a light or lights on the upstream and downstream sides shall be installed. The piers shall be so marked until the construction has been completed and permanent navigational lighting has been reinstalled and determined to be operating satisfactorily. Written approval from the Coast Guard of temporary lighting during periods of construction is required. No existing bridge navigation lights shall be impaired or blocked during darkness or periods of reduced visibility.

i. Compliance with the requirements stated herein does not relieve the contractor of the obligation or responsibility for compliance with the provisions of any other law or regulation as may be under the jurisdiction of the State of North Carolina, or any other federal, state or local authority having cognizance of any aspect of the location, construction or maintenance of said bridge. It is advised that the Coast Guard can levy monetary civil penalties for violations of bridge regulations and statutes.

New 5-4-11

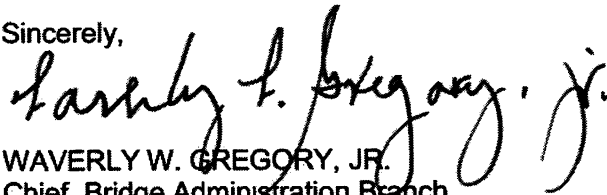
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16591 B  
11 APR 11

j. In accordance with Title 33 Code of Federal Regulations Part 118.25 – Application procedure, approval of lights and other signals required shall be obtained prior to construction. Application shall be by letter accompanied by duplicate sets of drawings showing (1) the plan and elevation of the structure showing lights and signals proposed, and (2) a small scale vicinity chart showing proposed bridge and all other bridges within 1,000 feet above or below the proposed bridge.

The office of the Bridge Administrator, Fifth Coast Guard District, shall be notified immediately upon completion of the project. If you should have any questions regarding this matter, please call Ms. Lindsey Middleton at (757) 398-6629.

Sincerely,



WAVERLY W. GREGORY, JR.  
Chief, Bridge Administration Branch  
By direction of the Commander  
Fifth Coast Guard District

Encl: (1) Bridge Permit 1-11-5 dated April 7, 2011  
(2) USCG Temporary Marking & Lighting

Copy: John Walters, (dpw) w/encl  
USCG Sector North Carolina, Waterways Management w/encl

**LIGHTING REQUIREMENTS FOR BARGES AND STRUCTURES NOT PART OF A  
BRIDGE OR APPROACH STRUCTURE**

**88.13 Lights on barges at bank or dock.**

- (a) The following barges shall display at night and, if practicable, in periods of restricted visibility the lights described in paragraph (b) of this section -
  - (1) Every barge projecting into a buoyed or restricted channel.
  - (2) Every barge so moored that it reduces the available navigable width of any channel to less than 80 meters.
  - (3) Barges moored in groups more than two barges wide or to a maximum width of over 25 meters.
  - (4) Every barge not moored parallel to the bank or dock.
- (b) Barges described in paragraph (a) shall carry two unobstructed white lights of an intensity to be visible for a least one mile on a clear dark night and arranged as follows:
  - (1) On a single moored barge, lights shall be placed on the two corners farthest from the bank or dock.
  - (2) On barges moored in group formation, a light shall be placed on each of the upstream and downstream ends of the group, on the corners farthest from the bank or dock.
  - (3) Any barge in a group, projecting from the main body of the group toward the channel, shall be lighted as a single barge.
- (c) Barges moored in any slip or slough, which is used primarily for mooring purposes, are exempt from the lighting requirements of this section.

**33 CODE OF FEDERAL REGULATIONS, SECTION 118.95  
LIGHTS ON STRUCTURES NOT PART OF A BRIDGE OR APPROACH STRUCTURE**

Lights on sheer booms, isolated piers, obstructions, and other structures not part of a bridge or approach structure must meet the requirements for aids to navigation in Subpart 66.01 of Part 66 of this chapter

**33 CODE OF FEDERAL REGULATIONS, SECTION 66.01-10**

- (a) The characteristics of a private aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of Part 62 of this subchapter, except that only tungsten-incandescent light sources will be approved for electric lights.

Therefore in accordance with 33 CFR 66.01-10(a), the above lights shall be marked with slow flashing yellow lights visible for two miles on a clear dark night. Lights similar to the Tideland ML-120 Barge Light may be used. Only tungsten-incandescent light sources will be approved for electric lights.



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## BRIDGE PERMIT

(1-11-5)

APR 07 2011

**WHEREAS** by Title V of an act of Congress approved August 2, 1946, entitled "General Bridge Act of 1946," as amended (33 U.S.C. 525-533), the consent of Congress was granted for the construction, maintenance and operation of bridges and approaches thereto over the navigable waters of the United States;

**AND WHEREAS** the Secretary of Homeland Security has delegated the authority of Section 502(b) of that act to the Commandant, U. S. Coast Guard by Department of Homeland Security Delegation Number: 0170.1;

**AND WHEREAS** before construction is commenced, the Commandant must approve the location and plans of any such bridge and may impose any specific conditions relating to the construction, maintenance and operation of the structure deemed necessary in the interest of public navigation, such conditions to have the force of law;

**AND WHEREAS** the - STATE OF NORTH CAROLINA - has submitted for approval the location and plans of a bridge to be constructed across the Pasquotank River at Elizabeth City, North Carolina;

**NOW THEREFORE**, This is to certify that the location and plans dated 28 January 2011 are hereby approved by the Commandant, subject to the following conditions:

1. No deviation from the approved plans may be made either before or after completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the Commandant.

2. The construction of falsework, cofferdams or other obstructions, if required, shall be in accordance with plans submitted to and approved by the Commander, Fifth Coast Guard District, prior to construction of the bridge. All work shall be so conducted that the free navigation of the waterway is not unreasonably interfered with and the present navigable depths are not impaired. Timely notice of any and all events that may affect navigation shall be given to the District Commander during construction of the bridge. The channel or channels through the structure shall be promptly cleared of all obstructions placed therein or caused by the construction of the bridge to the satisfaction of the District Commander, when in the judgment of the District Commander the construction work has reached a point where such action should be taken, but in no case later than 90 days after the bridge has been opened to traffic.

**Replacement bridge across the Pasquotank River  
at Elizabeth City, North Carolina****(1-11-5)**

3. Issuance of this permit does not relieve the permittee of the obligation or responsibility for compliance with the provisions of any other law or regulation as may be under the jurisdiction of the State of North Carolina, Division of Coastal Management, or any other federal, state or local authority having cognizance of any aspect of the location, construction or maintenance of said bridge.


4. The location of, and materials to be used in construction of, the pier protection fender system as shown on the approved plan sheets 2, 3 and 4 (of 4) dated 28 January 2011 shall be submitted to the District Commander for approval prior to commencing construction of such system. The entire pier protection fender system shall be maintained as a continuous system between the new eastbound bridge and the existing westbound bridge.

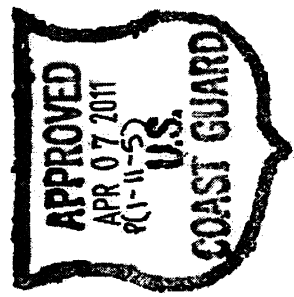
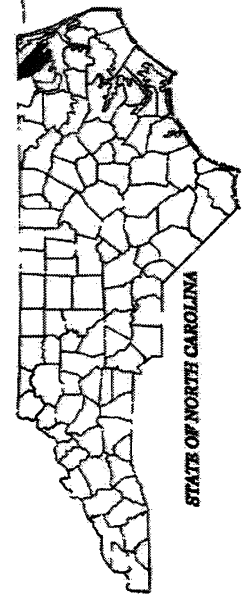
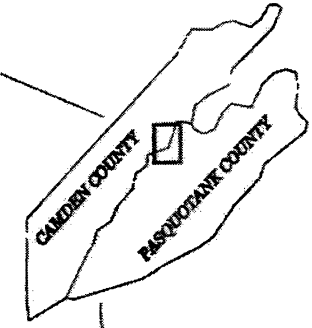
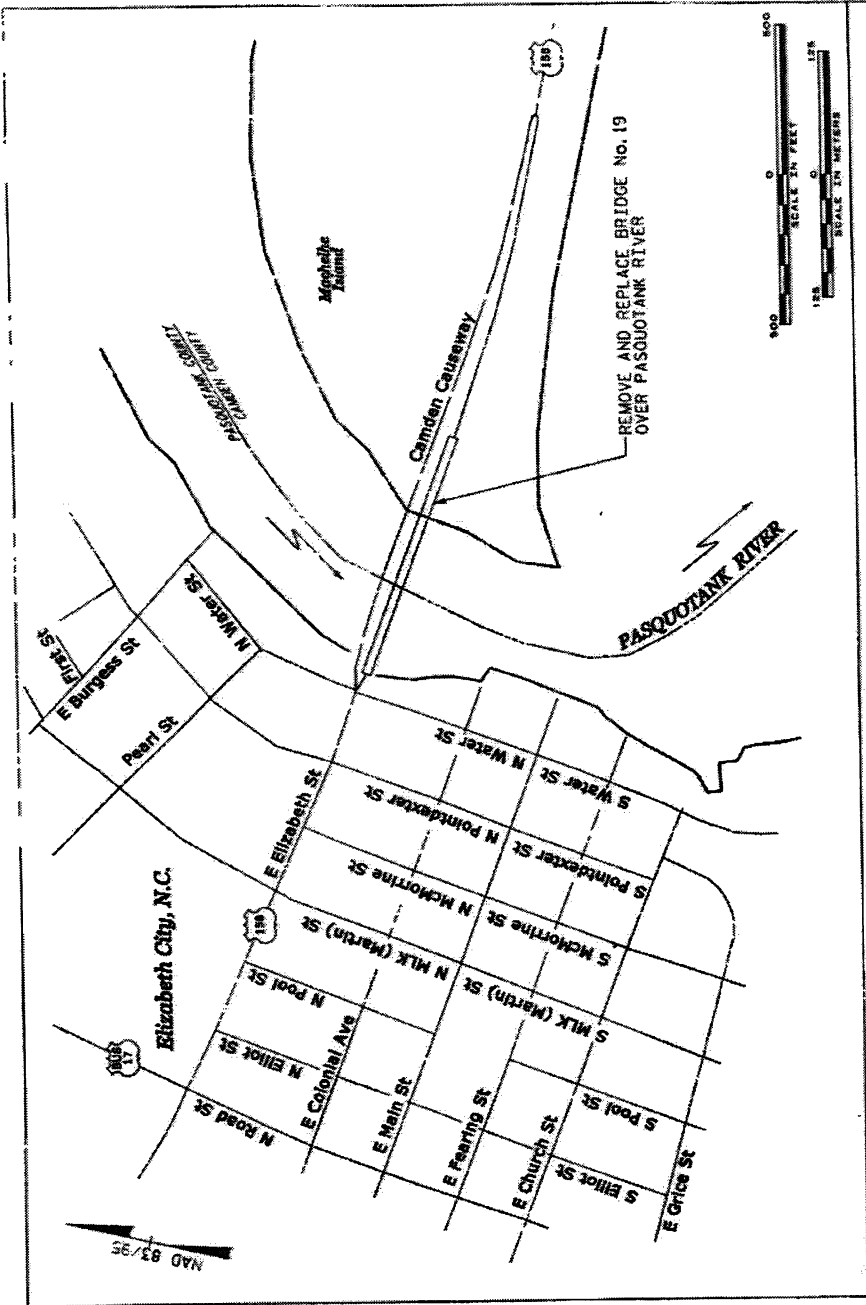
5. Clearance gauges shall be installed and maintained in a good and legible condition by and at the expense of the owner of the bridge. The type of gauges and the locations in which they are to be installed will be submitted to the District Commander for approval.

6. All parts of the existing to-be-replaced Eastbound US 158 Bridge across the Pasquotank River, mile 50.7, not utilized in the new bridge shall be removed in their entirety and the waterway cleared to the satisfaction of the District Commander. A period of 90 days subsequent to the opening to traffic of the new bridge, mile 50.7, will be allowed for such removal and clearance.

7. When the proposed bridge is no longer used for transportation purposes, it shall be removed in its entirety or to an elevation deemed appropriate by the District Commander and the waterway cleared to the satisfaction of the District Commander. Such removal and clearance shall be completed by and at the expense of the owner of the bridge upon due notice from the District Commander.

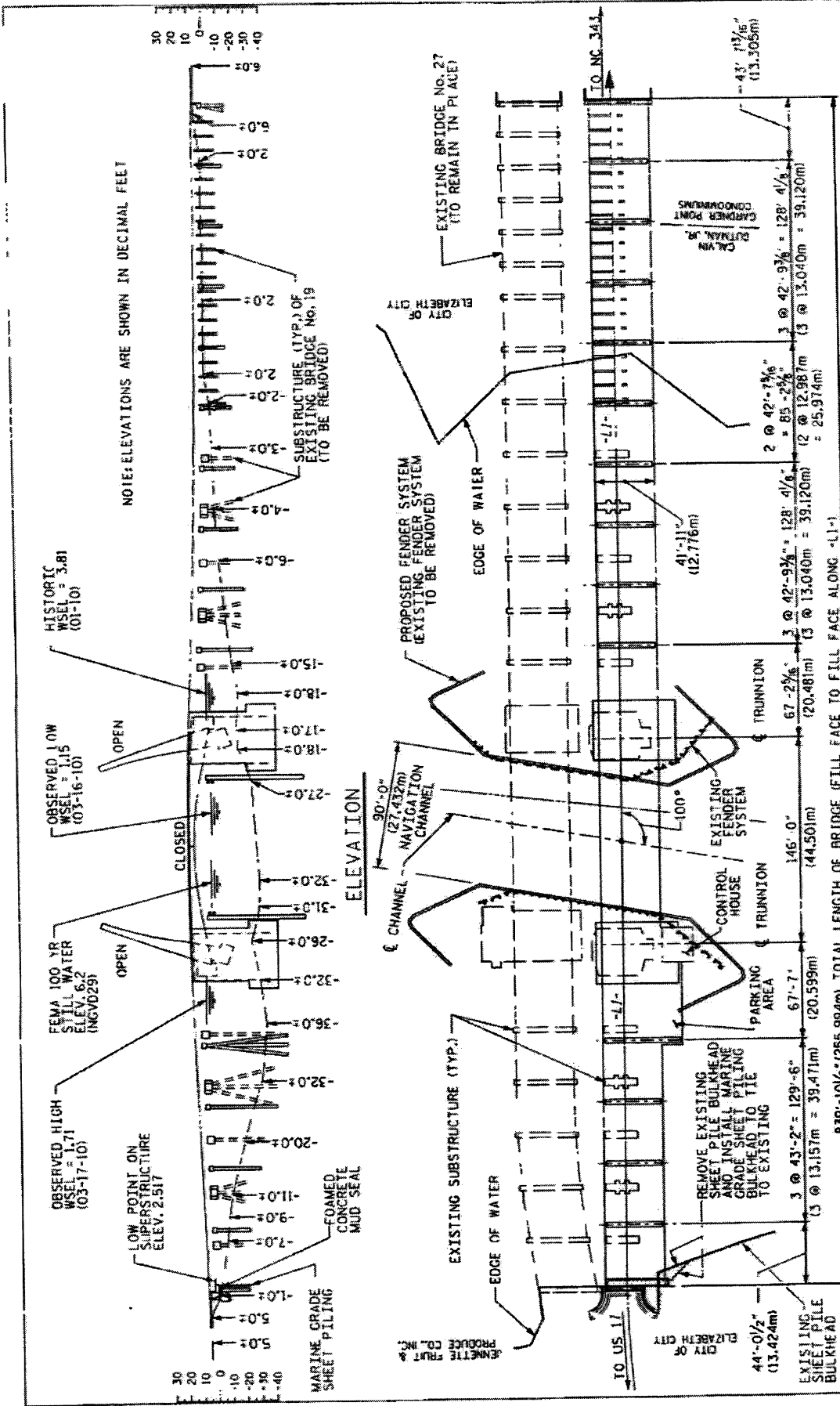
8. The approval hereby granted shall cease and be null and void unless construction of the bridge is commenced within three years and completed within five years after the date of this permit.

  
HALA ELGAALY, P.E.  
Administrator, Bridge Program  
U. S. Coast Guard  
By direction of the Commandant



STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RALEIGH, NC
PASQUOTANK & CAMDEN COUNTIES ELIZABETH CITY, NC
PROPOSED BRIDGE ON US 158 (CAMDEN CAUSEWAY) BETWEEN US 17 AND NC 343 OVER PASQUOTANK RIVER @ MILE POINT 50.7 (INTRACOSTAL WATERWAY - ALTERNATE ROUTE)
REPLACEMENT OF BRIDGE NO. 19
STATE PROJECT NO.: U 4438
SHEET 1 OF 4

DRAWN BY P. E. W. DATE: JUN. 20, 2011.  
CHECKED BY I. POYER DATE: JUN. 28, 2011.

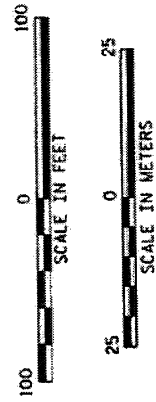
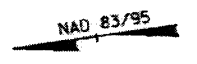


NOTE: ELEVATIONS ARE SHOWN IN DECIMAL FEET

STATE OF NORTH CAROLINA  
 DEPARTMENT OF TRANSPORTATION  
 RALEIGH, NC  
 PASQUOTANK & CAMDEN COUNTIES  
 ELIZABETH CITY, NC  
 PROPOSED BRIDGE ON US 158 (CAMDEN CAUSEWAY)  
 BETWEEN US 17 AND NC 343  
 PASQUOTANK RIVER @ MILE POINT 50.7  
 (INTRACASTAL WATERWAY - ALTERNATE ROUTE)  
 REPLACEMENT OF BRIDGE NO. 19  
 STATE PROJECT NO.: U 4438 SHEET 2 OF 4

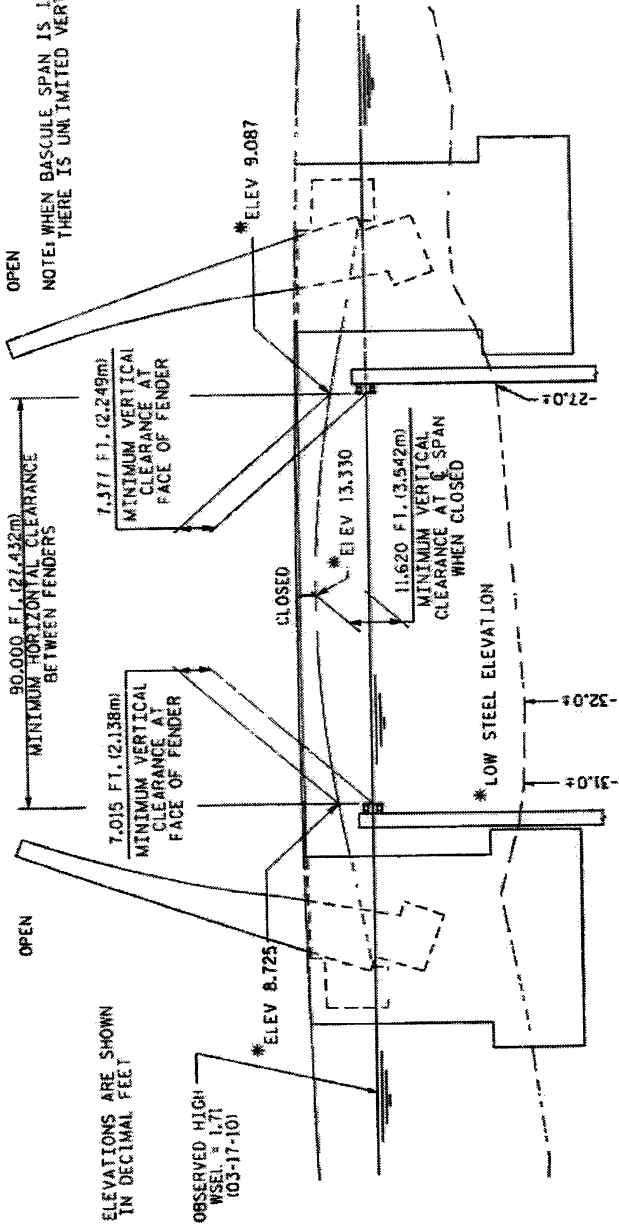


PASQUOTANK RIVER  
 PASQUOTANK COUNTY  
 CAMDEN COUNTY  
 PLAN



DRAWN BY: P. ERYN DATE: JUN 20, 2011  
 CHECKED BY: J. POYNE DATE: JUN 28, 2011

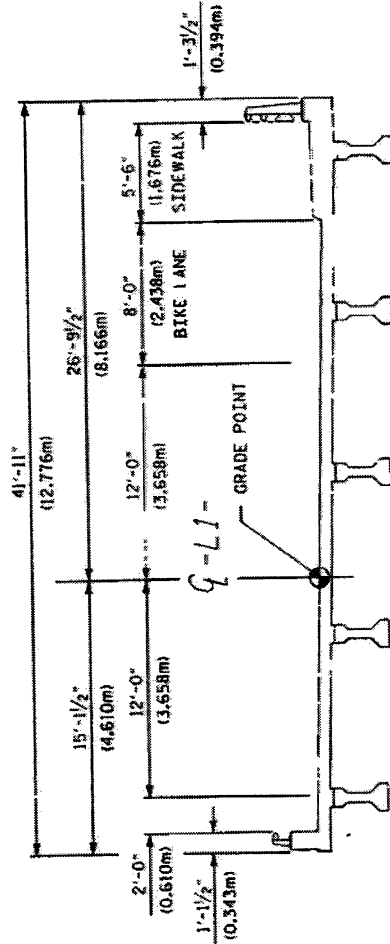
NOTE: WHEN BASCULE SPAN IS IN THE OPEN POSITION THERE IS UNLIMITED VERTICAL CLEARANCE



NOTE: ELEVATIONS ARE SHOWN IN DECIMAL FEET

OBSERVED HIGH WSEL = 1.71 (103-17-10)

ELEVATION AT BASCULE SPAN  
SHOWING NAVIGATIONAL CLEARANCES



TYPICAL SECTION  
(APPROACH SPANS TO BASCULE SPAN)

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RALEIGH, NC
PASQUOTANK & CAMDEN COUNTIES ELIZABETH CITY, NC
PROPOSED BRIDGE ON US 158 (CAMDEN CAUSEWAY) BETWEEN US 17 AND NC 343 OVER PASQUOTANK RIVER @ MILE POINT 50.7 (INTRACOSTAL WATERWAY - ALTERNATE ROUTE)
REPLACEMENT OF BRIDGE No. 19
STATE PROJECT NO.: U-4438
SHEET 3 OF 4

DRAWN BY: P. Erwin DATE: Jan. 20, 2011  
CHECKED BY: T. Poyne DATE: Jan. 28, 2011





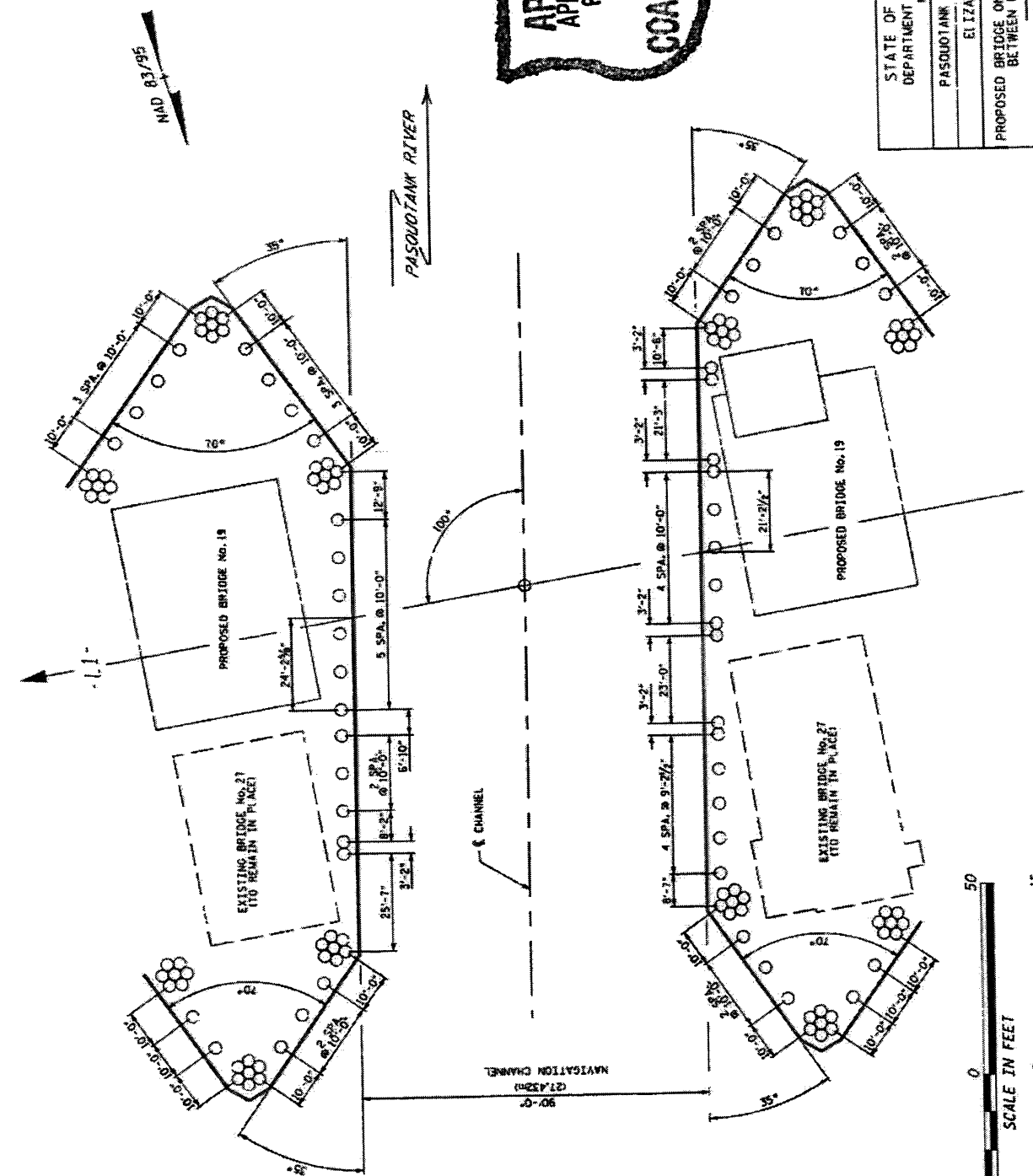
STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
RALEIGH, NC

PASQUOTANK & CAMDEN COUNTIES  
ELIZABETH CITY, NC

PROPOSED BRIDGE ON US 158 (CAMDEN CAUSEWAY)  
BETWEEN US 17 AND NC 343  
OVER  
PASQUOTANK RIVER 48 MILE POINT 50.7  
(INTRACOASTAL WATERWAY - ALTERNATE ROUTE)

REPLACEMENT OF BRIDGE No. 19

STATE PROJECT NO : U 4438 SHEET 4 OF 4



NAD 83/95

PASQUOTANK RIVER

FENDER SYSTEM LAYOUT



DRAWN BY : P. E. Vln DATE : JUN. 28, 2011  
CHECKED BY : J. PSYON DATE : JUN. 28, 2011

New 5-4-11

910

U.S. Department of  
Homeland Security



United States  
Coast Guard

Commander  
United States Coast Guard  
Fifth Coast Guard District

431 Crawford Street  
Portsmouth, Va. 23704-5004  
Staff Symbol: (dpg)  
Phone: 757-398-6629  
Fax: 757-398-6334  
Email: Lindsey.R.Middleton@uscg.mil

16591 E  
20 APR 10

Mr. Gregory Thorpe  
Environmental Management Director  
North Carolina Department of Transportation  
Natural Environment Unit  
1598 Mail Service Center  
Raleigh, NC 27699-1598

Dear Mr. Thorpe:

We have received your letter dated April 13, 2011, requesting approval of the navigational lighting plan for the US 158 replacement bridge across Pasquotank River, mile 50.7, at Elizabeth City, Pasquotank and Camden Counties, NC. The lighting plan dated April 13, 2011, was reviewed and meets the lighting requirements set forth in the Code of Federal Regulations, Section 118.65.

The navigational lighting plan is approved and a copy is enclosed for your files. No deviation from the approved plans may be made unless the modifications are submitted to and approved by this office. If you have any questions please contact Lindsey Middleton at the above listed telephone number or email address.

Sincerely,

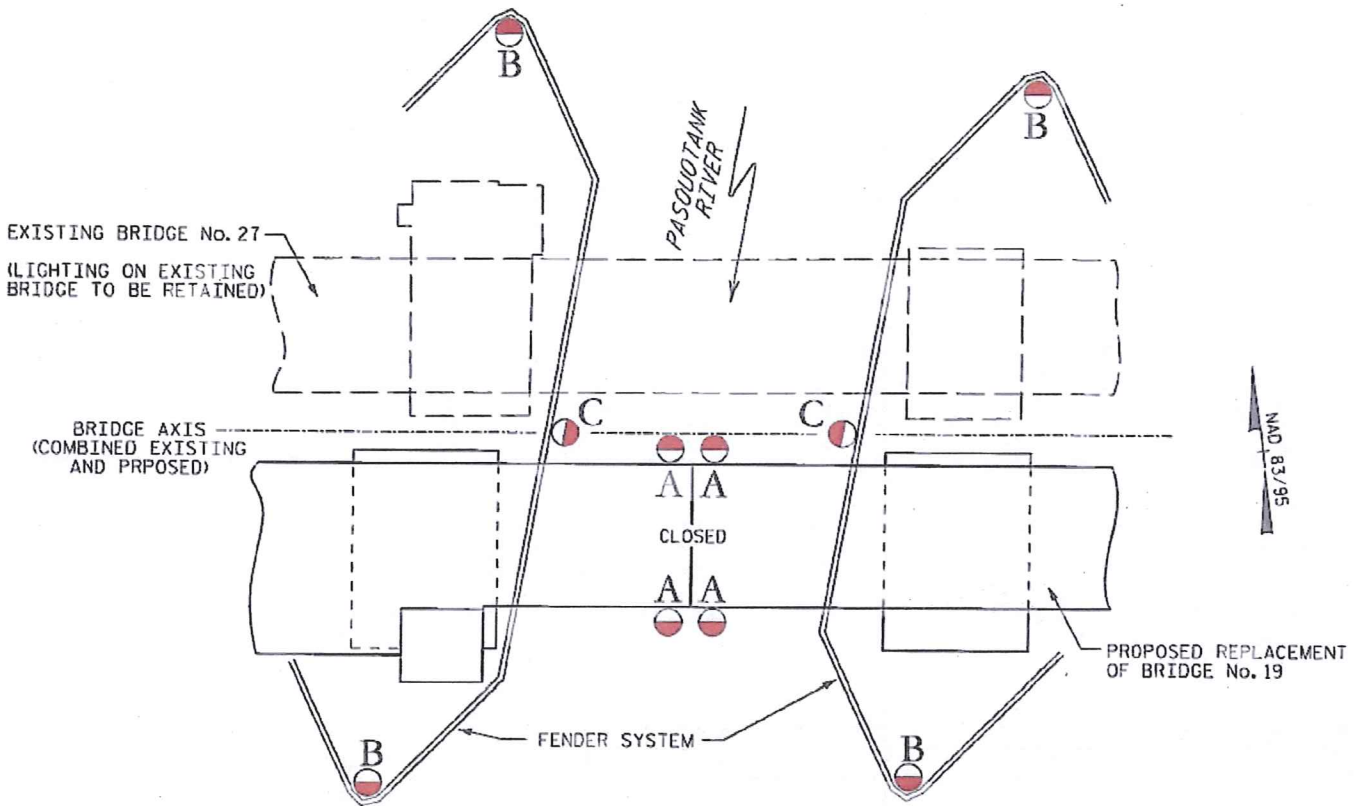
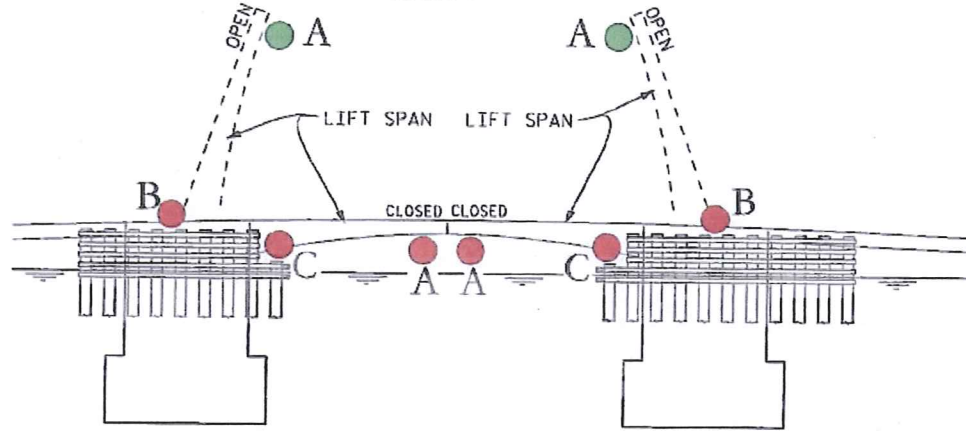
A handwritten signature in black ink that reads "Waverly W. Gregory, Jr." in a cursive style.

WAVERLY W. GREGORY, JR.  
Chief, Bridge Administration Branch  
By direction of the Commander  
Fifth Coast Guard District




Encl.: (1) Copy of approved navigational lighting plan

Copy: CG Sector North Carolina, Waterways Management

911



LIGHT COLORS AND HORIZONTAL ARCS OF VISIBILITY

- LIFT SPAN:**
- A  180° GREEN WHEN LIFT SPAN IS FULLY OPEN FOR NAVIGATION  
180° RED FOR ALL OTHER POSITIONS OF LIFT SPAN
  - B  PIER 180° RED LIGHT
  - C  AXIS 180° RED LIGHT

Office, Currituck, Fish Coast Guard Station  
451 Crawford Street  
Perquimans, VA 22909  
Workstation Name and/or other objects  
specified on plans.  
*Laroly T. Byrd* 4/25/11  
Chief, Bridge Administrator Date

STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RALEIGH, NC	
PASQUOTANK & CAMDEN COUNTIES	
ELIZABETH CITY, NC	
PROPOSED BRIDGE ON US 15B (CAMDEN CAUSEWAY) BETWEEN US 17 AND NC 343 OVER PASQUOTANK RIVER @ MILE POINT 50.7 (INTRACOASTAL WATERWAY - ALTERNATE ROUTE)	
REPLACEMENT OF BRIDGE No. 19	
STATE PROJECT NO. : U-443B	SHEET 3 OF 3

DRAWN BY : P. Ervin DATE : Apr 12, 2011  
CHECKED BY : T. Payne DATE : Apr 12, 2011