



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 12, 2008

North Carolina Division of Water Quality
Transportation Permitting Unit
1650 Mail Service Center
Raleigh NC 27966-1650

ATTENTION: Mr. Brian Wrenn,
NCDOT Coordinator

Dear Sir:

SUBJECT: **401 Certification Application** for the replacement of Bridge No. 223 over West Fork Twelve Mile Creek on SR 1321 in Union County. Federal Aid Project No. BRZ-1321(3), WBS Element 33634.1.1, Division 10, TIP No. B-4296. Debit Work order 33634.1.1 in the amount of \$240.

An application was previously submitted for this project but omitted the request for written authorization from the NCDWQ.

Please see the enclosed Pre-Construction Notification (PCN), US Fish and Wildlife Concurrence Letter, permit drawings, design plans, and US Army Corps of Engineers Nationwide Permit 23 and 33 for the above referenced project. A Programmatic Categorical Exclusion, dated June 12, 2007, has been completed and distributed for this project. Additional copies are available upon request. The North Carolina Department of Transportation (NCDOT) proposes to replace the 41-foot, single-span bridge with a new 115-foot, single-span bridge over West Fork Twelve Mile Creek. The existing bridge will be replaced in place at the location of the existing bridge, and traffic will be maintained on an off site detour. There will 120 feet of linear stream impacts due to the relocation of an unnamed tributary to West Fork Twelve Mile Creek. There are no jurisdictional wetlands in the project area.

IMPACTS TO WATERS OF THE UNITED STATES

General Description:

The single water resource impacted for project B-4296 is an Unnamed Tributary to West Fork Twelve Mile Creek. Within the project area, West Fork Twelve Mile Creek is approximately 25 feet wide and 1-2 feet deep, and the UT is approximately 1 foot wide and <4 inches deep where water exists. The Division of Water Quality (DWQ) Index number for this section of West Fork Twelve Mile Creek is 11-138-1, and the Hydrological Cataloguing Unit is 03050103 within the

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1598 MAIL SERVICE CENTER
RALEIGH NC 27699-1548

TELEPHONE: 919-715-1334
FAX: 919-715-5501

WEBSITE: WWW.NCDOT.ORG

LOCATION:
PARKER LINCOLN BUILDING,
2728 CAPITAL BLVD.
RALEIGH NC 27604

Catawba River Basin. The DWQ classifies West Fork Twelve Mile Creek as “C”. Within the project area, West Fork Twelve Mile Creek is not listed as a 303(d) water. There are no 303(d) waters within a mile downstream of the project area. No High Quality Waters (HQW), Water Supplies (WS-I or WSII), or Outstanding Resource Waters (ORW), occur within one mile of the project study area.

Permanent Impacts:

There will be 120 feet of stream impacts to the UT to West Fork Twelve Mile Creek due to the improvement of the alignment of SR 1315. This design places the fill for the abutment into the UT to West Fork Twelve Mile Creek and requires the relocation of this system. The new single-span structure will have no permanent impacts to West Fork Twelve Mile Creek.

Temporary Impacts:

There will be <0.01 acre of temporary impact to the UT of West Fork Twelve Mile Creek associated with the relocation of this system.

Utility Impacts:

A gas line will be relocated on the north side of the bridge using a directional bore method. There will be no jurisdictional impacts associated with utilities for this project.

Bridge Demolition:

Bridge No. 223 is constructed of timber and steel and should be removed without any temporary fill falling into West Fork Twelve Mile Creek during demolition.

FEDERALLY PROTECTED SPECIES

Plants and animals with federal classifications of Endangered (E), Threatened (T), Proposed Endangered (PE) and Proposed Threatened (PT) are protected under provisions of Section 7 and Section 9 of the Endangered Species Act of 1973, as amended. As of January 31, 2008, the United States Fish and Wildlife Service (USFWS) lists three federally protected species for Union County (Table 1).

NCDOT is in receipt of a letter from USFWS (attached to this package) concurring with the findings below.

Table 1. Federally Protected Species for Union County

Common Name	Scientific Name	Status	Habitat Present	Last Survey Date	Biological Conclusion
Carolina heelsplitter	<i>Lasmigona decorata</i>	Endangered	Yes	10/2004	No Effect
Michaux's sumac	<i>Rhus michauxii</i>	Endangered	Yes	7/2006	No Effect
Schweinitz's sunflower	<i>Helianthus schweinitzii</i>	Endangered	Yes	10/2006	No Effect

AVOIDANCE, MINIMIZATION AND MITIGATION

Avoidance and Minimization:

Avoidance examines all appropriate and practicable possibilities of averting impacts to “Waters of the United States.” The NCDOT is committed to incorporating all reasonable and practicable design features to avoid and minimize jurisdictional impact. In addition, Best Management Practices will be followed as outlined in “NCDOT’s Best Management Practices for Construction and Maintenance Activities”.

Additional avoidance and minimization efforts for this project include:

- The replacement with a spanning structure over West Fork Twelve Mile Creek.
- Traffic will be maintained on an off site detour eliminating the need for construction of a temporary on-site detour.
- Water will not be directly discharged into West Fork Twelve Mile Creek via deck drains.
- The new bridge will be longer, allowing for better hydraulic connectivity for West Fork Twelve Mile Creek.

Mitigation:

NCDOT proposes no mitigation for the 120 linear feet of impacts to the UT to West Fork Twelve Mile Creek due to the low quality of this system, and the reconstruction of this system resulting in a less incised feature.

PROJECT SCHEDULE

The project schedule calls for a December 16, 2008 let date, and a review date of October 28, 2008.

REGULATORY APPROVALS

Section 404 Permit:

This project has been authorized by US Army Corps of Engineers Nationwide 23 and 33 Permit. (Action ID SAW-2008-1223).

Section 401 Permit:

We anticipate 401 General Certification numbers 3701 and 3688 will apply to this project. In compliance with Section 143-215.3D(e) of the NCAC, we will provide \$240 to act as payment for processing the Section 401 certification application (debit WBS element 33634.1.1). We are providing five copies of this application to the North Carolina Department of Environment and Natural Resources, Division of Water Quality for their approval.

A copy of this application will be posted at
<http://www.ncdot.org/doh/preconstruct/pe/neu/permit.html>

Thank you for your assistance with this project. If you have any questions or need additional information, please contact Michael Turchy at maturchy@dot.state.nc.us or (919) 715-1468.

Sincerely,



for

Gregory J. Thorpe, Ph.D., Environmental Management Director
Project Development and Environmental Analysis Branch

cc:

W/attachment

2 Additional Copies to Mr. Brian Wrenn, NCDWQ

W/ out attachment

Mr. Steve Lund, USACE

Office Use Only:

Form Version March 05

USACE Action ID No. _____ DWQ No. _____

(If any particular item is not applicable to this project, please enter "Not Applicable" or "N/A".)

I. Processing

1. Check all of the approval(s) requested for this project:

<input checked="" type="checkbox"/> Section 404 Permit	<input type="checkbox"/> Riparian or Watershed Buffer Rules
<input type="checkbox"/> Section 10 Permit	<input type="checkbox"/> Isolated Wetland Permit from DWQ
<input checked="" type="checkbox"/> 401 Water Quality Certification	<input type="checkbox"/> Express 401 Water Quality Certification
2. Nationwide, Regional or General Permit Number(s) Requested: NW 23 & 33
3. If this notification is solely a courtesy copy because written approval for the 401 Certification is not required, check here:
4. If payment into the North Carolina Ecosystem Enhancement Program (NCEEP) is proposed for mitigation of impacts, attach the acceptance letter from NCEEP, complete section VIII, and check here:
5. If your project is located in any of North Carolina's twenty coastal counties (listed on page 4), and the project is within a North Carolina Division of Coastal Management Area of Environmental Concern (see the top of page 2 for further details), check here:

II. Applicant Information

1. Owner/Applicant Information

Name: Gregory J. Thorpe, Ph.D., Environmental Management Director

Mailing Address: 1598 Mail Service Center

Telephone Number: (919) 733-3141 Fax Number: (919) 733-9794

E-mail Address: maturchy@dot.state.nc.us
2. Agent/Consultant Information (A signed and dated copy of the Agent Authorization letter must be attached if the Agent has signatory authority for the owner/applicant.)

Name: _____

Company Affiliation: _____

Mailing Address: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

III. Project Information

Attach a **vicinity map** clearly showing the location of the property with respect to local landmarks such as towns, rivers, and roads. Also provide a detailed **site plan** showing property boundaries and development plans in relation to surrounding properties. Both the vicinity map and site plan must include a scale and north arrow. The specific footprints of all buildings, impervious surfaces, or other facilities must be included. If possible, the maps and plans should include the appropriate USGS Topographic Quad Map and NRCS Soil Survey with the property boundaries outlined. Plan drawings, or other maps may be included at the applicant's discretion, so long as the property is clearly defined. For administrative and distribution purposes, the USACE requires information to be submitted on sheets no larger than 11 by 17-inch format; however, DWQ may accept paperwork of any size. DWQ prefers full-size construction drawings rather than a sequential sheet version of the full-size plans. If full-size plans are reduced to a small scale such that the final version is illegible, the applicant will be informed that the project has been placed on hold until decipherable maps are provided.

1. Name of project: Replacement of Bridge 223 over West Fork Twelve Mile Creek on SR 1321 (Cuthbertson Road).
2. T.I.P. Project Number or State Project Number (NCDOT Only): B-4296
3. Property Identification Number (Tax PIN): N/A
4. Location
County: Union Nearest Town: Waxhaw
Subdivision name (include phase/lot number): N/A
Directions to site (include road numbers/names, landmarks, etc.): _____
5. Site coordinates (For linear projects, such as a road or utility line, attach a sheet that separately lists the coordinates for each crossing of a distinct waterbody.)
Decimal Degrees (6 digits minimum): 34.9577 °N -80.7523 °W
6. Property size (acres): N/A
7. Name of nearest receiving body of water: West Fork Twelve Mile Creek
8. River Basin: Catawba
(Note – this must be one of North Carolina's seventeen designated major river basins. The River Basin map is available at <http://h2o.enr.state.nc.us/admin/maps/>.)
9. Describe the existing conditions on the site and general land use in the vicinity of the project at the time of this application: The land uses surrounding and within the project area are primarily woodland and scattered residential homes.
10. Describe the overall project in detail, including the type of equipment to be used: _____

Standard construction equipment will be used (backhoes, bulldozers, cranes and/or other heavy machinery)

11. Explain the purpose of the proposed work: The purpose of the project is to replace a functionally and structurally obsolete structure, and to obtain a safer and more efficient traffic operation.

IV. Prior Project History

If jurisdictional determinations and/or permits have been requested and/or obtained for this project (including all prior phases of the same subdivision) in the past, please explain. Include the USACE Action ID Number, DWQ Project Number, application date, and date permits and certifications were issued or withdrawn. Provide photocopies of previously issued permits, certifications or other useful information. Describe previously approved wetland, stream and buffer impacts, along with associated mitigation (where applicable). If this is a NCDOT project, list and describe permits issued for prior segments of the same T.I.P. project, along with construction schedules. None.

V. Future Project Plans

Are any future permit requests anticipated for this project? If so, describe the anticipated work, and provide justification for the exclusion of this work from the current application.
None.

VI. Proposed Impacts to Waters of the United States/Waters of the State

It is the applicant's (or agent's) responsibility to determine, delineate and map all impacts to wetlands, open water, and stream channels associated with the project. Each impact must be listed separately in the tables below (e.g., culvert installation should be listed separately from riprap dissipater pads). Be sure to indicate if an impact is temporary. All proposed impacts, permanent and temporary, must be listed, and must be labeled and clearly identifiable on an accompanying site plan. All wetlands and waters, and all streams (intermittent and perennial) should be shown on a delineation map, whether or not impacts are proposed to these systems. Wetland and stream evaluation and delineation forms should be included as appropriate. Photographs may be included at the applicant's discretion. If this proposed impact is strictly for wetland or stream mitigation, list and describe the impact in Section VIII below. If additional space is needed for listing or description, please attach a separate sheet.

1. Provide a written description of the proposed impacts: 120 linear feet of permanent impacts and 14 feet of temporary impacts to UT to West Fork Twelve Mile Creek due to the relocation of this system.

2. Individually list wetland impacts. Types of impacts include, but are not limited to mechanized clearing, grading, fill, excavation, flooding, ditching/drainage, etc. For dams, separately list impacts due to both structure and flooding.

Wetland Impact Site Number (indicate on map)	Type of Impact	Type of Wetland (e.g., forested, marsh, herbaceous, bog, etc.)	Located within 100-year Floodplain (yes/no)	Distance to Nearest Stream (linear feet)	Area of Impact (acres)
None					
Total Wetland Impact (acres)					

3. List the total acreage (estimated) of all existing wetlands on the property: None

4. Individually list all intermittent and perennial stream impacts. Be sure to identify temporary impacts. Stream impacts include, but are not limited to placement of fill or culverts, dam construction, flooding, relocation, stabilization activities (e.g., cement walls, rip-rap, crib walls, gabions, etc.), excavation, ditching/straightening, etc. If stream relocation is proposed, plans and profiles showing the linear footprint for both the original and relocated streams must be included. To calculate acreage, multiply length X width, then divide by 43,560.

Stream Impact Number (indicate on map)	Stream Name	Type of Impact	Perennial or Intermittent?	Average Stream Width Before Impact	Impact Length (linear feet)	Area of Impact (acres)
1	UT to 12 mi. Creek	Permanent	Intermittent	1'	120	0.01
1	UT to 12 mi. Creek	Temporary	Intermittent	1'	14	<0.01
Total Permanent Stream Impact (by length and acreage)					134	<0.02

5. Individually list all open water impacts (including lakes, ponds, estuaries, sounds, Atlantic Ocean and any other water of the U.S.). Open water impacts include, but are not limited to fill, excavation, dredging, flooding, drainage, bulkheads, etc.

Open Water Impact Site Number (indicate on map)	Name of Waterbody (if applicable)	Type of Impact	Type of Waterbody (lake, pond, estuary, sound, bay, ocean, etc.)	Area of Impact (acres)
No open water impacts				
Total Open Water Impact (acres)				

6. List the cumulative impact to all Waters of the U.S. resulting from the project:

Stream Impact (acres):	0.01 (120')
Wetland Impact (acres):	
Open Water Impact (acres):	
Total Impact to Waters of the U.S. (acres)	0.01 (120')
Total Stream Impact:	0.01 (120')

7. Isolated Waters

Do any isolated waters exist on the property? Yes No

Describe all impacts to isolated waters, and include the type of water (wetland or stream) and the size of the proposed impact (acres or linear feet). Please note that this section only applies to waters that have specifically been determined to be isolated by the USACE.

8. Pond Creation

If construction of a pond is proposed, associated wetland and stream impacts should be included above in the wetland and stream impact sections. Also, the proposed pond should be described here and illustrated on any maps included with this application.

Pond to be created in (check all that apply): uplands stream wetlands

Describe the method of construction (e.g., dam/embankment, excavation, installation of draw-down valve or spillway, etc.): _____

Proposed use or purpose of pond (e.g., livestock watering, irrigation, aesthetic, trout pond, local stormwater requirement, etc.): _____

Current land use in the vicinity of the pond: _____

Size of watershed draining to pond: _____ Expected pond surface area: _____

VII. Impact Justification (Avoidance and Minimization)

Specifically describe measures taken to avoid the proposed impacts. It may be useful to provide information related to site constraints such as topography, building ordinances, accessibility, and financial viability of the project. The applicant may attach drawings of alternative, lower-impact site layouts, and explain why these design options were not feasible. Also discuss how impacts were minimized once the desired site plan was developed. If applicable, discuss construction techniques to be followed during construction to reduce impacts. Traffic will be maintained on an offsite detour during construction. No deck drains will be used and NCDOT's Best Management Practices will be followed.

VIII. Mitigation

DWQ - In accordance with 15A NCAC 2H .0500, mitigation may be required by the NC Division of Water Quality for projects involving greater than or equal to one acre of impacts to freshwater wetlands or greater than or equal to 150 linear feet of total impacts to perennial streams.

USACE - In accordance with the Final Notice of Issuance and Modification of Nationwide Permits, published in the Federal Register on January 15, 2002, mitigation will be required when

necessary to ensure that adverse effects to the aquatic environment are minimal. Factors including size and type of proposed impact and function and relative value of the impacted aquatic resource will be considered in determining acceptability of appropriate and practicable mitigation as proposed. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland and/or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferable in the same watershed.

If mitigation is required for this project, a copy of the mitigation plan must be attached in order for USACE or DWQ to consider the application complete for processing. Any application lacking a required mitigation plan or NCEEP concurrence shall be placed on hold as incomplete. An applicant may also choose to review the current guidelines for stream restoration in DWQ's Draft Technical Guide for Stream Work in North Carolina, available at <http://h2o.enr.state.nc.us/newetlands/strmgide.html>.

1. Provide a brief description of the proposed mitigation plan. The description should provide as much information as possible, including, but not limited to: site location (attach directions and/or map, if offsite), affected stream and river basin, type and amount (acreage/linear feet) of mitigation proposed (restoration, enhancement, creation, or preservation), a plan view, preservation mechanism (e.g., deed restrictions, conservation easement, etc.), and a description of the current site conditions and proposed method of construction. Please attach a separate sheet if more space is needed.

No mitigation is proposed due to the quality and size of the UT to Twelve Mile Creek.

2. Mitigation may also be made by payment into the North Carolina Ecosystem Enhancement Program (NCEEP). Please note it is the applicant's responsibility to contact the NCEEP at (919) 715-0476 to determine availability, and written approval from the NCEEP indicating that they are will to accept payment for the mitigation must be attached to this form. For additional information regarding the application process for the NCEEP, check the NCEEP website at <http://h2o.enr.state.nc.us/wrp/index.htm>. If use of the NCEEP is proposed, please check the appropriate box on page five and provide the following information:

Amount of stream mitigation requested (linear feet): 0

Amount of buffer mitigation requested (square feet): 0

Amount of Riparian wetland mitigation requested (acres): 0

Amount of Non-riparian wetland mitigation requested (acres): 0

Amount of Coastal wetland mitigation requested (acres): 0

IX. Environmental Documentation (required by DWQ)

1. Does the project involve an expenditure of public (federal/state/local) funds or the use of public (federal/state) land? Yes No

2. If yes, does the project require preparation of an environmental document pursuant to the requirements of the National or North Carolina Environmental Policy Act (NEPA/SEPA)?
Note: If you are not sure whether a NEPA/SEPA document is required, call the SEPA coordinator at (919) 733-5083 to review current thresholds for environmental documentation.
Yes No
3. If yes, has the document review been finalized by the State Clearinghouse? If so, please attach a copy of the NEPA or SEPA final approval letter. Yes No

X. Proposed Impacts on Riparian and Watershed Buffers (required by DWQ)

It is the applicant's (or agent's) responsibility to determine, delineate and map all impacts to required state and local buffers associated with the project. The applicant must also provide justification for these impacts in Section VII above. All proposed impacts must be listed herein, and must be clearly identifiable on the accompanying site plan. All buffers must be shown on a map, whether or not impacts are proposed to the buffers. Correspondence from the DWQ Regional Office may be included as appropriate. Photographs may also be included at the applicant's discretion.

1. Will the project impact protected riparian buffers identified within 15A NCAC 2B .0233 (Neuse), 15A NCAC 2B .0259 (Tar-Pamlico), 15A NCAC 02B .0243 (Catawba) 15A NCAC 2B .0250 (Randleman Rules and Water Supply Buffer Requirements), or other (please identify _____)? Yes No
2. If "yes", identify the square feet and acreage of impact to each zone of the riparian buffers. If buffer mitigation is required calculate the required amount of mitigation by applying the buffer multipliers.

Zone*	Impact (square feet)	Multiplier	Required Mitigation
1		3 (2 for Catawba)	
2		1.5	
Total			

* Zone 1 extends out 30 feet perpendicular from the top of the near bank of channel; Zone 2 extends an additional 20 feet from the edge of Zone 1.

3. If buffer mitigation is required, please discuss what type of mitigation is proposed (i.e., Donation of Property, Riparian Buffer Restoration / Enhancement, or Payment into the Riparian Buffer Restoration Fund). Please attach all appropriate information as identified within 15A NCAC 2B .0242 or .0244, or .0260. N/A

XI. Stormwater (required by DWQ)

Describe impervious acreage (existing and proposed) versus total acreage on the site. Discuss stormwater controls proposed in order to protect surface waters and wetlands downstream from the property. If percent impervious surface exceeds 20%, please provide calculations

demonstrating total proposed impervious level. Impervious surfaces will not significantly increase as a result of this project. Water will not directly discharge into West Fork Twelve Mile Creek.

XII. Sewage Disposal (required by DWQ)

Clearly detail the ultimate treatment methods and disposition (non-discharge or discharge) of wastewater generated from the proposed project, or available capacity of the subject facility.
N/A

XIII. Violations (required by DWQ)

Is this site in violation of DWQ Wetland Rules (15A NCAC 2H .0500) or any Buffer Rules?
Yes No

Is this an after-the-fact permit application? Yes No

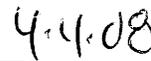
XIV. Cumulative Impacts (required by DWQ)

Will this project (based on past and reasonably anticipated future impacts) result in additional development, which could impact nearby downstream water quality? Yes No
If yes, please submit a qualitative or quantitative cumulative impact analysis in accordance with the most recent North Carolina Division of Water Quality policy posted on our website at <http://h2o.enr.state.nc.us/ncwetlands>. If no, please provide a short narrative description: The new bridge will be constructed near the location of the old bridge.

XV. Other Circumstances (Optional):

It is the applicant's responsibility to submit the application sufficiently in advance of desired construction dates to allow processing time for these permits. However, an applicant may choose to list constraints associated with construction or sequencing that may impose limits on work schedules (e.g., draw-down schedules for lakes, dates associated with Endangered and Threatened Species, accessibility problems, or other issues outside of the applicant's control).





Applicant/Agent's Signature

Date

(Agent's signature is valid only if an authorization letter from the applicant is provided.)

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

RECEIVED

MAY 5 2008

DIVISION OF HIGHWAYS
FDEA OFFICE OF NATURAL ENVIRONMENT

Action ID: SAW-2008-1323

County: Union

USGS Quad: Waxhaw

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: NC Department of Transportation, Project Development and Environmental Analysis Branch, Attn: Gregory J. Thorpe, Director

Address: 1548 Mail Service Center
Raleigh, NC 27699-1548

Telephone No.: 919-733-3141

Size and location of property (water body, road name/number, town, etc.): Bridge No. 223 on SR 1321 (Cuthbertson Road) over West Fork Twelve Mile Creek east of Waxhaw, TIP No. B-4296.

Description of projects area and activity: Replace the existing 41-foot long, single span bridge with a new 115-foot long bridge at the same location. Relocate approximately 120 feet of an unnamed tributary to the north of the bridge. No wetland will be impacted by the proposed work and traffic will be detoured off-site during construction.

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 Numbers: 23 & 33

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 Steven Lund at telephone 828-271-7980.

Corps Regulatory Official: Steven Lund *SWT*

Date: May 1, 2008

Expiration Date of Verification: May 1, 2010

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://www.saw.usace.army.mil/WETLANDS/index.html> 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).
- 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.
- The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued _____. Action ID _____

Basis of Jurisdictional Determination: West Fork Twelve Mile Creek is a perennial stream (RPW) flowing to the Catawba River, a navigable water (NW).

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: Steven W. Lund, Project Manager
Asheville Regulatory Field Office
151 Patton Avenue, Room 208
Asheville, North Carolina 28801-5006

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 1/2/2008.

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: Steven Lund *swl*

Date May 1, 2008

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: N/A