STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 3, 2004

MEMORANDUM TO: Mr. H. Allen Pope, P.E.
Division 3 Engineer

FROM: Philip S. Harris, III, P.E., Manager
Office of the Natural Environment
Project Development and
Environmental Analysis Branch

SUBJECT: Brunswick County, Replace Bridge No. 61 on NC 133 over Town Creek; Work Order Number 8.1231401; Federal Aid Project No. BRSTP-133(1); TIP Number B-3115

Attached are the U. S. Army Corps of Engineers Nationwide Permit Number 23 and 33 and the Division of Water Quality 401 Water Quality Certification for the construction of the above referenced project. All environmental permits have been received for the construction of this project.

PSH/ma

Attachment

cc: Mr. Art McMillan, P.E.
Mr. Omar Sultan
Mr. Jay Bennett, P.E.
Mr. David Chang, P.E.
Mr. Randy Garris, P.E.
Mr. Greg Perfetti, P.E.
Mr. Mark Staley
Mr. Mr. John F. Sullivan, III, FHWA
Mr. Mason Herndon, Division 3 Environmental Officer

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

TELEPHONE: 919-733-3141
FAX: 919-733-9794

WEBSITE: WWW.DOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

PROJECT COMMITMENTS

TIP PROJECT B-3115, Brunswick County

Bridge No. 61, on NC 133
Over Town Creek
Federal Aid Project BRSTP-133(1)
State Project 8.1231401

In addition to the standard Nationwide Permit No. 23 Conditions, the General Nationwide Permit Conditions, Section 404 Only Conditions, Regional Conditions, State Consistency Conditions, NCDOT's Guidelines for Best Management Practices for Bridge Demolitions and Removal, NCDOT's Guidelines for Best Management Practices for the Protection of Surface Waters, General Certification Conditions, and Section 401 Conditions of Certification, the following special commitment have been agreed to by NCDOT:

Commitments Developed Through Project Development and Design

Structure Design Unit, Division 3 Construction

Bridge Demolition: Bridge No. 61 is 300 feet (91.4 meters) long and 26.4 feet (8.04 meters) wide. It has a reinforced concrete deck on steel I-beams with concrete caps on timber piles. Thus, there is a potential for components of the bridge to be dropped into Waters of the United States during construction. The resulting temporary fill associated with the bridge will be as much as approximately 158.9 cubic yards. This calculation was based on the entire length of the bridge extending over surface waters as well as jurisdictional wetlands. All deposited components will be removed from the Waters of the U.S. as quickly as possible. During construction, Best Management Practices for Bridge Demolition and Removal will be followed. To ensure the project will not adversely affect the endangered shortnose sturgeon, explosives will not be used in the bridge demolition. *See Commitments Developed Through Permitting for updated change for Bridge Demolition*

Hydraulics Unit, Structure Design Unit, Division 3 Construction

Stream Crossing Guidelines: NCDOT's "Stream Crossing Guidelines for Anadromous Fish Passage" will be followed in the design & construction phases.

Division 3 Construction

Construction Moratorium: There will be no in-water or in-marsh activity from February 1 through June 15. This is considered the in-migration, spawning, and out-migration period for the endangered shortnose sturgeon and another anadromous fish._All measures should be taken to prevent sedimentation in Town Creek during construction. *See Commitments Developed Through Permitting for change to this moratorium date – per updated moratorium schedule dated August 12, 2002.*

The U.S. Fish and Wildlife Service has developed a list of "Precautions for the general construction in areas which may be used by the West Indian manatee in North Carolina." These precautions will be considered in all aspects of project construction; therefore, this project will not affect the West Indian manatee. *See Commitments Developed Through Permitting for update to this reference document.*

NCDOT has agreed to delay closing NC 133 until after Labor Day.

Roadside Environmental Unit

Design Standards in Sensitive Watersheds: To ensure the project will not adversely affect the endangered shortnose sturgeon, Design Standards for Sensitive Watersheds (formerly High Quality Water Guidelines) will be used.

Roadway Design Unit

Fill slope in wetland areas: To minimize wetland impacts and provide for slope stability, the maximum fill slope of 3:1 will be used in wetland areas.

A 3:1 slope or steeper was designed in wetland areas to minimize impacts.

Project Development and Environmental Analysis Branch, Division 3 Construction

NCDOT will investigate whether any necessary improvements are needed for NC 87 to be used as a detour route, including the need for additional traffic signals and resurfacing.

NC 87 was resurfaced through the town limits of Boiling Springs Lakes prior to closing NC 133 to replace Bridge No. 56 over Allen Creek. A traffic signal will be installed at the NC 87/SR 1541 intersection at Boiling Springs Lakes Middle School.

NCDOT will provide Carolina Power and Light Company and Brunswick County Emergency Management Officials with an estimate of the amount of time the closure of NC 133 will add to evacuation times for the Brunswick Nuclear Plant.

In response to local government requests, NCDOT will provide further public notification regarding this bridge replacement, road closure and detour route. This will be coordinated with Brunswick County Emergency Management.

One-week prior to the closing of NC 133, the Division office will forward a notice to all forms of media in the local area.

Commitments Developed Through Permitting

Roadside Environmental and Division 3 Construction

CAMA Condition #1
Due to the presence of the endangered Shortnose Sturgeon and other anadromous fish, no in-water or in-marsh work shall be conducted from **February 1st to June 30th** of any year without prior approval of the NC Division of Coastal Management (DCM), in consultation with the NC Division of Marine Fisheries (DMF), the NC Wildlife Resources Commission (WRC), and the US Army Corps of Engineers (USACE). For purposes of this moratorium, in-water is defined as those areas that are inundated at any time during construction, including the waters or contiguous marsh of Town Creek.

CAMA Condition #2
The permittee shall implement NC DOT's Stream Crossing Guidelines for Anadromous Fish Passage.

CAMA Condition #4
In accordance with project commitments made within the Categorical Exclusion document dated June 2002, Design Standards for Sensitive Watersheds will be used to ensure the project will not adversely affect the endangered Shortnose Sturgeon and anadromous fish.

CAMA Condition #5
In accordance with project commitments made within the Categorical Exclusion document dated June 2002, "Guidelines for Avoiding Impacts to the West Indian Manatee, Precautionary Measures for Construction Activities in North Carolina Waters" will be used to ensure the project will not adversely affect the endangered West Indian Manatee. The most recent version of these guidelines, revised 6/2003, shall be followed.

404 Condition #2 and CAMA Conditions #6, #7 and #8
Bridge demolition and removal will be accomplished in accordance with "North Carolina Department of Transportation Policy: Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999 and the NCDOT permit application for this project submitted by letters dated March 12, 2004 and April 2, 2004. Bridge No. 61 shall be removed without dropping any of the bridge debris into the water. The USACE and DCM shall approve any revision to this bridge demolition plan. All excavated materials and debris associated with the removal of the existing bridge and temporary work bridge will be disposed of on an approved upland site.

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 NC Division of Marine Fisheries Morehead City office at (252) 726-7021 to coordinate review of the suitability of the material and arrangements for such use.

CAMA Condition #16
There shall be no clearing or grubbing in wetlands outside of the area indicated on the workplan drawing(s).

Roadside Environmental Unit

404 Condition #3 and CAMA Condition #3
Turbidity curtains shall be installed to reduce turbidity in accordance with "North Carolina Department of Transportation, Best Management Practices for Construction and Maintenance Activities" dated August 2003. Turbidity curtains shall be used to contain all bottom disturbing activities, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains are to be properly maintained and retained in the water until construction is complete and turbidity within the curtains reaches ambient levels. The turbidity curtains shall be installed parallel to the stream banks on each side of the stream, extend past the construction limits, and attach to the silt fences containing the work site. The turbidity curtains shall not encircle a work area or extend across the streams. Turbidity curtains are to be retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means.

CAMA Condition #28
All disturbed areas shall be properly graded and provided a ground cover sufficient to restrain erosion within thirty days of project completion.

Division 3 Construction

CAMA Condition #9
The permanent and temporary work bridges shall be constructed with driven piles. Should drilled shaft construction or jetting of any bridge piles become necessary, a modification to this permit will be required.

CAMA Condition #10
Temporary work bridges or platforms and barge will be utilized for construction access. Use of timber mats for construction access is not authorized. Dredging in any manner, including "kicking" with boat propellers is not authorized.

CAMA Condition #11
Work barges shall be floated into place and then sunk. They shall not be sunk then dragged into place.

CAMA Condition #12
The temporary work bridges shall be removed within 90 days of project completion or within 30 days of the moratorium end date if the project is completed while the moratorium is in effect.

CAMA Condition #13
Existing bridge pilings shall be extracted or removed flush with the streambed.

Project Development and Environmental Analysis

404 Condition #1 and CAMA Condition #23
Compensatory mitigation for the unavoidable impacts to 0.17 acres of wetland associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated May 19, 2004 from William D. Gilmore, EEP Transition Manager. The EEP will provide 0.17 acres of non-riverine wetland mitigation in the Southern Inner Coastal Plain Eco-Region. The funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.

Project Development and Environmental Analysis (Cont.)

CAMA Condition #22
Due to the possibility that compaction, mechanized clearing and/or other site alterations might prevent the temporary wetland impact area from re-attaining jurisdictional wetland status, the permittee shall provide an annual update on the wetland areas temporarily impacted by this project. This annual update will consist of photographs provided during the agency monitoring report meeting and a brief report on the progress of these temporarily impacted areas in re-attaining wetland jurisdictional status. Three years after project completion, the permittee shall schedule an agency field meeting with DCM, the NC Division of Water Quality and the NC Wildlife Resources Commission to determine if the wetland areas temporarily impacted by this project have re-attained jurisdictional wetland status. If at the end of 3 years, the wetland areas temporarily impacted by this project have not re-attained jurisdictional wetland status, NC DCM and the above listed agencies shall determine whether a compensatory wetland mitigation plan will be required.

Dagnino

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action ID: 200100914 **TIP No.** B-3115 **State Project No.** 8.1231401 **County:** Brunswick

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner: Gregory J. Thorpe, Ph.D
Address: Environmental Management Director, PDEA
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548
Telephone Number: (910) 733-3141

Size and Location of project (waterway, road name/number, town, etc.): Bridge No. 61 on NC 133 over Town Creek, Brunswick County, North Carolina.

Description of Activity: Discharge of fill material permanently impacting a total of 0.17 acres of waters of the United States, including wetlands for construction of TIP Project No. B-3115 for replacement of Bridge No. 61 on NC 133 over Town Creek, Brunswick County, North Carolina, as described in NCDOT letters dated March 12, 2004 and April 2, 2004. Bridge No. 61 is 300 feet long and 26.4 wide and has a reinforced concrete deck supported on steel I-beams. Bridge No. 61 will be replaced in its existing location with a new bridge that will be approximately 300 feet long and 32 feet wide. The approaches will include two 12-foot lanes and 8-foot road shoulders. During construction SR 1435 traffic will be detoured onto NC 87. Work associated with the proposed project shall be accomplished in accordance with the attached special conditions.

Applicable Law:
X Section 404 (Clean Water Act, 33 U.S.C. 1344)
X Section 10 (River and Harbor Act of 1899)

Authorization:
23,33 Nationwide Permit Number
_____ Regional General Permit Number

Your work is authorized by this Regional General (RGP) or Nationwide (NWP) Permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. If your activity is subject to Section 404 (if Section 404 block above is checked), before beginning work you must also receive a Section 401 water quality certification from the N.C. Division of Environmental Management, telephone (919) 733-1786. For any activity within the twenty coastal counties, before beginning work you must contact the N.C. Division of Coastal Management, telephone (919) 733-2293.

Please read and carefully comply with the attached conditions of the RGP or NWP. Any violation of the conditions of the RGP or NWP referenced above may subject the permittee to a stop work order, a restoration order, and/or appropriate legal action.

This Department of the Army RGP or NWP verification does not relieve the permittee of the responsibility to obtain any other required Federal, State, or local approvals/permits. The permittee may need to contact appropriate State and local agencies before beginning work.

If there are any questions regarding this authorization or any of the conditions of the RGP or NWP, please contact the Corps Regulatory Official specified below.

Date May 20, 2004

Corps Regulatory Official _____ **Telephone No.** (910) 251-4634
Expiration Date of Verification May 20, 2006

CF: NCDENR-DWQ, NCDENR-CAMA, ATTN: Cathy Brittingham, NCDOT Division 3, ATTN Mason Herndon.

SPECIAL CONDITIONS
TIP Project B-3115
Action ID 200100914
May 20, 2004

1. Compensatory mitigation for the unavoidable impacts to 0.17 acres of wetland associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated May 19, 2004 from William D. Gilmore, EEP Transition Manager. The EEP will provide 0.17 acres of non-riverine wetland mitigation in the Southern Inner Coastal Plain Eco-Region. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.

2. Bridge demolition and removal will be accomplished in accordance with "North Carolina Department of Transportation Policy: Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999 and the NCDOT permit application for this project submitted by letters dated March 12, 2004 any April 2, 2004. Bridge No. 61 shall be removed without dropping any of the bridge debris into the water. This office shall approve any revision to this bridge demolition plan.

3. Turbidity curtains shall be installed to reduce turbidity in accordance with ' North Carolina Department of Transportation, Best Management Practices for Construction and Maintenance Activities" dated August 2003.

4. Installation of the permanent bridge piles by any method shall result in a moratorium on any work within waters of ~~Sturgeon~~ Town Creek from February 1 and June 30 of any year to protect shortnose sturgeon (*Acipenser brevirostrum*), anadromous fish, and nursery area activity.

5. All work must be performed as shown on the attached plans, which are a part of this permit. Failure to institute and carry out the details of the following special conditions, below, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

6. The temporary placement or double handling of excavated or fill material or construction equipment and materials within waters and wetlands are not authorized.

7. One copy of the final construction drawings shall be furnished to the District Engineer prior to the pre-construction meeting. Written verification shall be provided that the final construction drawings comply with the attached permit drawings. The permittee shall ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Any deviation in the construction design plans, including bridge demolition, shall be brought to the attention of the Corps of Engineers, Mr. Dave Timpy, Wilmington Regulatory Field Office prior to any active construction in waters or wetlands.

8. The permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Wilmington Regulatory Field Office NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The permittee shall notify the Corps of Engineers Project Manager a minimum of thirty (30) days in advance of the scheduled meeting in order to provide that individual with ample opportunity to schedule and participate in the required meeting.

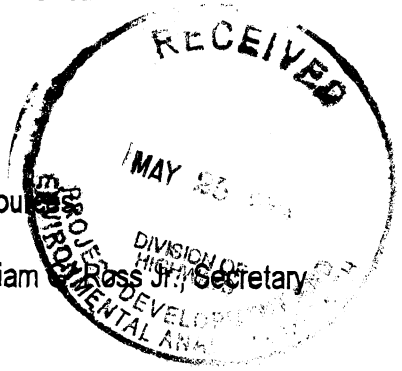
9. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. Copies of this permit and any modifications authorized by the USACE shall be available for review at the construction site at all times. All violations, including non-compliance of these conditions, of the authorized permit shall be reported to the District Engineer within 24 hours of the violation.

10. The permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and restore natural grades in those areas.

11. All land disturbing activity associated with the highway construction will be conducted in a way that prevents a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less is not considered significant.

12. The permittee and its contractors and/or agents shall not excavate, fill, or perform mechanized landclearing at any time in the construction or maintenance of this project within waters and/or wetlands, or cause the degradation of waters and/or wetlands, except as authorized by this permit, or any modification to this permit. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional wetlands or waters 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.

13. 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 ensure that all such areas comply with the preceding condition (12.) 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 (12.). All information will be available to the Corps of Engineers 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



NCDENR
North Carolina Department of Environment and Natural Resources
Division of Ecosystem Enhancement
Michael F. Easley, Governor
William G. Ross Jr., Secretary

May 19, 2004

Mr. David Timpy
US Army Corps of Engineers
Wilmington Regulatory Field Office
Post Office Box 1890
Wilmington, North Carolina 28403

Post-it® Fax Note 7671	Date 5/18	# of pages ▶ 2
To Dave Timpy	From Beth Harmon	
Co./Dept.	Co.	
Phone #	Phone # 715 1929	
Fax # 910 251 4026	Fax #	

Dear Mr. Timpy:

Project: Bridge Replacement over Town Creek, NC 133
DOT ID #: B-3115
County: Brunswick Co., Southern Inner Coastal Plain Eco-Region

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide wetland mitigation for the 0.17 acres of unavoidable non-riverine wetland impacts associated with the above referenced project.

The subject project is listed in Exhibit 2 of the Memorandum of Agreement among the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the U. S. Army Corps of Engineers, Wilmington District dated July 22, 2003; however, EEP intends to provide non-riverine wetland restoration mitigation.

If you have any questions or need additional information, please contact Ms. Beth Harmon at (919) 715-1929.

Sincerely,

William D. Gilmore

William D. Gilmore, P.E.
Transition Manager

need to ID pres. sites if any are to be used

cc: Phil Harris, P.E., Office of Natural Environment, NCDOT
John Hennessy, Division of Water Quality, Wetlands/401 Unit
File: B-3115

PROJECT REFERENCE NO.	SHEET NO.
B-3115	4
RW SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

THIS PROJECT IS IN ENGLISH UNITS

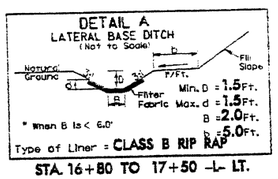
NAD 83

8/17/99

REVISIONS

POT Sta. 7+00.00

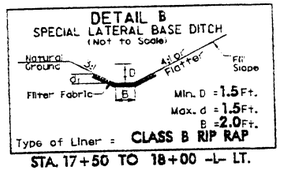
DETAIL A
LATERAL BASE DITCH
(Not to Scale)



Type of Liner = CLASS B RIP RAP

STA. 16+80 TO 17+50 -L- LT.

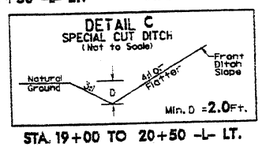
DETAIL B
SPECIAL LATERAL BASE DITCH
(Not to Scale)



Type of Liner = CLASS B RIP RAP

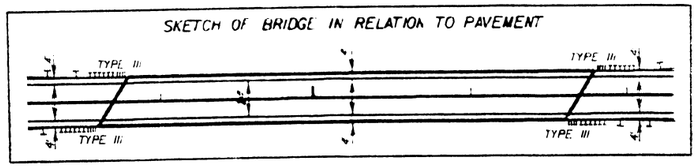
STA. 17+50 TO 18+00 -L- LT.

DETAIL C
SPECIAL CUT DITCH
(Not to Scale)



STA. 19+00 TO 20+50 -L- LT.

SKETCH OF BRIDGE IN RELATION TO PAVEMENT



-L-
PI Sta 20+58.00
Δ = 16° 52' 30.0" (RT)
D = 3° 45' 00.0"
L = 450.00'
T = 226.64'
R = 1,527.89'
SE = 0.08
RO = 2.0'

BEGIN TIP PROJECT B-3115
POT Sta. 9+00.00
BEG. 4" P.S.

END TIP PROJECT B-3115
POC Sta. 21+25.00
END 4" P.S.

PC Sta. 18+31.36

BEGIN BRIDGE
POT Sta. 13+68.77

END BRIDGE
POT Sta. 16+71.23

TOWN CREEK

TEMPORARY WORK BRIDGE

EXISTING BRIDGE AND BENTS

BRIDGE # 61

ABAND CONC BRIDGE SEAT

REMOVE

HISTORICAL SIGN TO BE REMOVED AND RESET

LATERAL BASE DITCH SEE DETAIL 'A'

SPECIAL LATERAL BASE DITCH SEE DETAIL 'B'

SPECIAL CUT DITCH SEE DETAIL 'C'

CLASS B RIPRAP EST. 1 TONS EST. 5 SY FF

CLASS B RIPRAP EST. 11 TONS EST. 5 SY FF

CLASS B RIP RAP TO ELEV. 9.0' (STRUCTURES ITEM)

GREASE TRAP

ANTENNA

48" MTL GATE

SEPTIC

BLK WELL (ABAND)

ISBLK

SCATTERED PALMS

EXISTING R/W

50.00' TO BELVILLE

50.00' TO SOUTHPORT

60' R/W ROAD EASEMENT

N 58° 51' 15" W 144.35'

N 58° 51' 15" W 88.22'

N 58° 51' 15" W 142.00'

N 58° 51' 15" W 262.67'

S 31° 08' 45" W 30.00'

S 55° 20' 04" W 89.67'

S 54° 20' 08" W 30.00'

N 41° 58' 35.7" W

S 36° 39' 4" E 385.15'

N 36° 39' 4" W 240.00'

N 87° 46' 47" E 60.05'

N 73° 43' 47" E 60.05'

S 36° 14' 30" E 501.26'

N 85° 24' 08" E 60.05'

N 80° 37' 25" W 11.28'

S 87° 44' 09" W 37.74'

N 87° 31' 49" E 28.06'

N 80° 37' 25" W 80.06'

+13.05

+70.26 60.39'

+62.83

+55.63 49.57'

+34.44 50.07'

+25.00 50' LT. & RT.

+31.36 50' LT. & RT.

+00 50' LT. & RT.

+10 50'

+60 65'

+65.97 50

BEGIN SBG @ 10+40 WOODS

END SBG @ 13+61

END SBG @ 17+07

END SBG @ 17+74

15" CSP WELDOWS EST. 5 SY FF

18" CSP WELDOWS EST. 1 TONS EST. 5 SY FF

24" POST

24" BST

15" RCP

18" RCP

18" CMP

24" CMP

CONC.

CONC. CURB

NC 133 25' BST

NC 133 23.7' BST

2 GI

T FO

TV FO

AT&T

BELL SOUTH

WLB

WOODS

MARSH

DAVID R. HARLESS

TOWN CREEK TIMBER COMPANY

WILLIAM C. WARWICK, III

CHARLES G. SCAFF, III

CLARK HIPP

WILLIAM C. WARWICK

NOTE: SEE SHEET 5 FOR -L- PROFILE

DENOTES FILL IN WETLAND

DENOTES MECHANIZED CLEARING IN WETLANDS

NCDOT
DIVISION OF HIGHWAYS
BRUNSWICK COUNTY
PROJECT: 32874.1.1 (B-3115)
REPLACE BRIDGE NO. 61 ON NC 133
OVER TOWN CREEK

PAV'T REMOVAL

Sheet 5 of 10

11-18-03

23-FEB-2004 10:14
R:\Hydro Data\B3115.drn
mshaw

0 10	PROJ. REFERENCE NO.	SHEET NO.
	B-3115	X-2

8/23/2

WETLANDS

0.0200 0.0200

10

0

BEGIN BRIDGE
STA. 13+88.77

14+00.00

WETLANDS

0.0200 0.0200

10

13+50.00

WETLANDS

0.0200 0.0200

10.36

13+00.00

MECHANIZED CLEARING LIMIT

WETLANDS

WETLANDS

0.0200 0.0200

10.35

12+50.00

MECHANIZED CLEARING LIMIT

WETLANDS

WETLANDS

0.0200 0.0200

10.37

12+00.00

MECHANIZED CLEARING LIMIT

L

FEB-2004 12:47
Highways\B3115prm.dgn

NATIONWIDE PERMIT 23
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 18, 2002

Approved Categorical Exclusions: Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW-OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Before to approval for purposes of this nationwide permit of any agency's categorical exclusions, the Chief of Engineers will solicit public comment. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this nationwide permit. (Sections 10 and 404)

NATIONWIDE PERMIT GENERAL CONDITIONS

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

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.

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

3. 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.

4. 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.

5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

6. 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 or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.

7. 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).

8. 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.

9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. 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. 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 is located in the 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 may affect Federally-listed endangered or threatened species or designated critical habitat, the 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. 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.

b. 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 USFWS 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 USFWS and NMFS or their World Wide Web pages at http://www.fws.gov/r9endspp/endspp.html and http://www.nfms.noaa.gov/prot res/overview/es.html respectively.

12. Historic Properties. No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification.

a. Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can 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 notification 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:

1. Until 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. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. 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 Notification: The notification 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. Brief 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. 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. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;

6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;

7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;

9. For NWP 29 (Single-Family Housing), the PCN must also include:

i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;

ii. A statement that the single-family housing activity is for a personal residence of the permittee;

iii. A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring \1/4\-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than

\1/4\-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

ii. A delineation of any affected special aquatic sites, including wetlands; and,

iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, 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.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. 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. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. 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. 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 is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. 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 days of receiving a complete PCN and determine whether the conceptual or specific 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 proposal 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 proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

e. Agency Coordination: 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 NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than \1/2\-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), 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 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 notification that the resource agencies'

concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (\1/4\-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps 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.

15. 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 US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. 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 US for the total project cannot exceed \ 1/3\-acre) .

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash,

debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US 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 impacts requiring a PCN, 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. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, \1/4\-acre of wetlands cannot be created to change a,\3/4\acre loss of wetlands to a \1/2\-acre loss associated with NWP 39 verification. However, \1/2\-acre of created wetlands can be used to reduce the impacts of a \1/2\-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. 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 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, preferably in the same watershed.

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., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer .will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and

open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment or, a watershed basis. In cases where vegetated buffers 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 impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

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

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce
adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes

structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, 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. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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 13, 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.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local

floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of a 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): BMPs are 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 nonstructural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly

exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

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. Runnoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

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 US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills 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 US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a 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 values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

Non-tidal Wetland: An area that, during a year with normal patterns of precipitation has standing or flowing water for sufficient duration to establish an ordinary high water mark. 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. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for the 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.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

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 course 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.

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 (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is 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.

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 BMPs, 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 Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) 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 (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat

for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers I a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWPs result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

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: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT

1. Waters Excluded from NWP or Subject to Additional Notification Requirements:

a. The Corps identified waters that will be excluded from use of this NWP. These waters are:

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

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

b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:

1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are "Outstanding Resource Waters" (ORW) and "High Quality

Waters" (HQW) (as defined by the North Carolina Division of Water Quality), or "Inland Primary Nursery Areas" (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or "Primary Nursery Areas" (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities 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) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a "Mountain or Piedmont Bog" of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

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	

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the

location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

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

6. 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 of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the 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. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

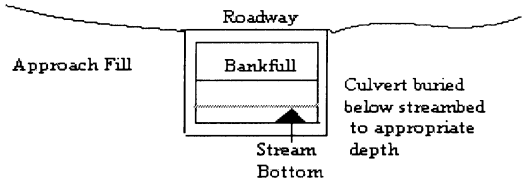
a. Individual or multiple NWPs may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWPs 13, 27 and 39 have specific reporting requirements.]

c. For all Nationwide Permits 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.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWPs that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms.
All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, 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. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this 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 more adverse impacts to the aquatic environment.

NORTH CAROLINA DIVISION OF WATER QUALITY
GENERAL CERTIFICATION CONDITIONS
GC3361

1. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires notification to the Division of Water Quality. Two copies shall be submitted to DWQ at the time of notification in accordance with 15A NCAC 2H .0501(a). Written concurrence from DWQ is not required unless any standard conditions of this Certification cannot be met;

2. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance
with the appropriate turbidity water quality standard;

3. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. In addition, 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 for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur. 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 traveling public;

4. Compensatory stream mitigation shall be required at a 1:1 ratio for all perennial and intermittent stream impacts equal to or exceeding 150 feet and that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II;

5. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;

6. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;

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

8. Impacts to any stream length in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development 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;

9. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

10. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide and Regional General Permits, whichever is sooner;

11. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT STATE CONSISTENCY

Consistent.

Citations:
2002 Nationwide Permits - Federal Register Notice 15 Jan 2002
2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002
2002 Regional Conditions – Authorized 17 May 2002

WQC #3403

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 23 (APPROVED CATEGORICAL EXCLUSIONS) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality 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) (23) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. This Certification replaces Water Quality Certification Number 2670 issued on January 21, 1992, Certification Number 2734 issued on May 1 1993, Certification Number 3107 issued on February 11, 1997 and Water Quality Certification Number 3361 issued March 18, 2002. This WQC is rescinded when the Corps of Engineers re-authorizes Nationwide Permit 23 or when deemed appropriate by the Director of the DWQ.

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.

Conditions of Certification:

1. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires notification to the Division of Water Quality. Two copies shall be submitted to DWQ at the time of notification in accordance with 15A NCAC 2H .0501(a). Written concurrence from DWQ is not required unless any standard conditions of this Certification cannot be met;

2. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;

3. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. In addition, 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 for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur. 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 travelling public;

4. Compensatory stream mitigation shall be required at a 1:1 ratio for not only perennial but also intermittent stream impacts equal to or exceeding 150 feet and that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II unless the project is a linear, publicly-funded transportation project, which has a 150-foot per-stream impact allowance;

5. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;

6. Measures shall be taken to prevent live or fresh concrete from coming into contact with freshwaters of the state until the concrete has hardened;

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

8. Impacts to any stream length in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development 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;

9. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

10. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide and Regional General Permits, whichever is sooner;

11. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

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

WQC #3403

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 that requires written concurrence under this certification, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland, stream 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 2003

DIVISION OF WATER QUALITY

By

Alan W. Klimek, P.E.

Director

WQC # 3403

NATIONWIDE PERMIT 33
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 18, 2002

Temporary Construction, Access and Dewatering: Temporary structures, work and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard (USCG), or for other construction activities not subject to the Corps or USCG regulations. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must be of materials, and placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if it is determined by the District Engineer that it will not cause more than minimal adverse effects on aquatic resources. Temporary fill must be entirely removed to upland areas, or dredged material returned to its original location, following completion of the construction activity, and the affected areas must be restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322). The permittee must notify the District Engineer in accordance with the "Notification" general condition. The notification must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources. The District Engineer will add special conditions, where necessary, to ensure environmental adverse effects is minimal. Such conditions may include: Limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g., construction mats in wetlands where practicable.). (Sections 10 and 404)

NATIONWIDE PERMIT GENERAL CONDITIONS

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

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.

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

3. 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.

4. 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.

5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

6. 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 or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.

7. 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).

8. 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.

9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. 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. 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 is located in the 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 may affect Federally-listed endangered or threatened species or designated critical habitat, the 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. 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.

b. 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 USFWS 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 USFWS and NMFS or their World Wide

Web pages at http://www.fws.gov/r9endspp/endspp.html and http://www.nfms.noaa.gov/protres/overview/es.html respectively.

12. Historic Properties. No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification.

a. Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can 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 notification 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:

1. Until 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. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. 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 Notification: The notification 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. Brief 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. 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. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;

6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;

7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;

9. For NWP 29 (Single-Family Housing), the PCN must also include:

i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;

ii. A statement that the single-family housing activity is for a personal residence of the permittee;

iii. A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring \1/4\-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than \1/4\-acre in size, formal wetland delineation must be prepared in accordance with the current

method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

ii. A delineation of any affected special aquatic sites, including wetlands; and,

iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, 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.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. 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. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. 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. 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 is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. 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 days of receiving a complete PCN and determine whether the conceptual or specific 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 proposal 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 proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

e. Agency Coordination: 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 NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than \1/2\-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), 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 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 notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens

Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (\1/4\-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps 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.

15. 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 US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. 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 US for the total project cannot exceed \ 1/3\-acre) .

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free

from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US 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 impacts requiring a PCN, 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. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, \1/4\-acre of wetlands cannot be created to change a.\3/4\acre loss of wetlands to a \1/2\-acre loss associated with NWP 39 verification. However, \1/2\-acre of created wetlands can be used to reduce the impacts of a \1/2\-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. 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 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, preferably in the same watershed.

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., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer .will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic

environment or, a watershed basis. In cases where vegetated buffers 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 impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

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

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable

waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, 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. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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 13, 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.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the

project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of a 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): BMPs are 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 nonstructural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase

one or more aquatic functions.

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. Runnoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

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 US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills 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 US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a 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 values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

Non-tidal Wetland: An area that, during a year with normal patterns of precipitation has

standing or flowing water for sufficient duration to establish an ordinary high water mark. 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. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for the 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.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

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 course 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.

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 (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is 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.

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 BMPs, 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 Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) 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 (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers I a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWPs result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

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: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT

1. Waters Excluded from NWP or Subject to Additional Notification Requirements:

a. The Corps identified waters that will be excluded from use of this NWP. These waters are:

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

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

b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:

1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are "Outstanding Resource Waters" (ORW) and "High Quality Waters" (HQW) (as defined by the North Carolina Division of Water Quality), or "Inland Primary Nursery Areas" (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or "Primary Nursery Areas" (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities 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) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a "Mountain or Piedmont Bog" of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

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	

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

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

6. 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 of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the 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. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a

swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

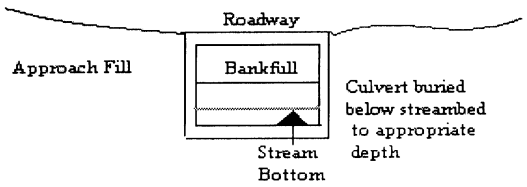
a. Individual or multiple NWPs may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWPs 13, 27 and 39 have specific reporting requirements.]

c. For all Nationwide Permits 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.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWPs that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms. All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, 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. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this 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 more adverse impacts to the aquatic

environment.

3. Additional Regional Conditions Applicable to this Specific Nationwide Permit.

The required restoration plan must include a timetable for restoration activities.

NORTH CAROLINA DIVISION OF WATER QUALITY
GENERAL CERTIFICATION CONDITIONS
GC3366

1. These activities do not require written concurrence from the Division of Water Quality as long as they comply with all conditions of this General Certification. If any condition in this Certification cannot be met, application to and written concurrence from DWQ are required. Also, Condition No. 2 is applicable to all streams in basins with riparian area protection rules;

2. Impacts to any stream length in the Neuse, Tar-Pamlico and Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development 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;

3. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;

4. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;

5. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;

6. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of

culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ. 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 aggradation, degradation or significant changes in hydrology of streams or wetlands;

7. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;

8. All temporary fill shall be removed to the original grade after construction is complete and the site shall be stabilized to prevent erosion;

9. Pipes shall be installed under the road or causeway in all streams to carry at least the 25 year storm event as outlined in the most recent edition of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" so as not to restrict stream flow during use of this Certification;

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

11. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

12. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits, whichever is sooner;

13. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT STATE CONSISTENCY

Consistent.

Citations:
2002 Nationwide Permits - Federal Register Notice 15 Jan 2002
2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002
2002 Regional Conditions – Authorized 17 May 2002

Permit Class
NEW

Permit Number
80-04

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

COPY

for

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

_X_ Excavation and/or filling pursuant to NCGS 113-229

Issued to **N.C. Department of Transportation, 1548 Mail Service Center, Raleigh, NC 27699-1548**

Authorizing development in Brunswick County at Town Creek, Bridge No. 61 on NC 133 (TIP No. B-3115), as requested in the permittee's application dated 3/5/04 and 4/2/04, including the attached workplan drawings (11): 1 dated 11/18/03; 3 dated 2/9/04; and 6 dated 2/20/04

This permit, issued on **5/26/04**, 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.

B-3115, Bridge Replacement

1) Due to the presence of the endangered Shortnose Sturgeon and other anadromous fish, no in-water or in-marsh work shall be conducted from February 1st to June 30th of any year without prior approval of the NC Division of Coastal Management (DCM), in consultation with the NC Division of Marine Fisheries (DMF), the NC Wildlife Resources Commission (WRC), and the US Army Corps of Engineers (USACE). For purposes of this mortorium, in-water is defined as those areas that are inundated at any time during construction, including the waters or contiguous marsh of Town Creek.

2) The permittee shall implement NC DOT's Stream Crossing Guidelines for Anadromous Fish Passage.

(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.

Charles S. Jones, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee

ADDITIONAL CONDITIONS

3) Turbidity curtains shall be used to contain all bottom disturbing activities, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains are to be properly maintained and retained in the water until construction is complete and turbidity within the curtains reaches ambient levels. The turbidity curtains shall be installed parallel to the stream banks on each side of the stream, extend past the construction limits, and attach to the silt fences containing the work site. The turbidity curtains shall not encircle a work area or extend across the streams. Turbidity curtains are to be retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means.

4) In accordance with project commitments made within the Categorical Exclusion document dated June 2002, Design Standards for Sensitive Watersheds will be used to ensure the project will not adversely affect the endangered Shortnose Sturgeon and anadromous fish.

5) In accordance with project commitments made within the Categorical Exclusion document dated June 2002, "Guidelines for Avoiding Impacts to the West Indian Manatee, Precautionary Measures for Construction Activities in North Carolina Waters" will be used to ensure the project will not adversely affect the endangered West Indian Manatee. The most recent version of these guidelines, revised 6/2003, shall be followed.

6) The NCDOT document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during demolition and construction activities.

7) Debris resulting from demolition of the existing bridge, including deck components, shall not enter wetlands or waters of the United States, even temporarily.

8) All excavated materials and debris associated with the removal of the existing bridge and temporary work bridge will be disposed of on an approved upland site.

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 NC Division of Marine Fisheries Morehead City office at (252) 726-7021 to coordinate review of the suitability of the material and arrangements for such use.

9) The permanent and temporary work bridges shall be constructed with driven piles. Should drilled shaft construction or jetting of any bridge piles become necessary, a modification to this permit will be required.

10) Temporary work bridges or platforms and barge will be utilized for construction access. Use of timber mats for construction access is not authorized. Dredging in any manner, including "kicking" with boat propellers is not authorized.

11) Work barges shall be floated into place and then sunk. They shall not be sunk then dragged into place.

12) The temporary work bridges shall be removed within 90 days of project completion or within 30 days of the moratorium end date if the project is completed while the moratorium is in effect.

ADDITIONAL CONDITIONS

13) Existing bridge pilings shall be extracted or removed flush with the streambed.

14) No excavated or fill material will be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill area indicated on the work plan drawing(s).

15) The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized.

16) There shall be no clearing or grubbing in wetlands outside of the area indicated on the workplan drawing(s).

17) No excavation will occur within waters or wetlands of the State.

18) All excavated materials will be confined above normal high water 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.

19) The fill material will be clean and free of any pollutants except in trace quantities.

20) Live concrete shall not be allowed to contact the water in or entering into the stream.

21) Placement of riprap shall be limited to the areas as depicted on the attached work plan drawings. The riprap material must be free from loose dirt or any pollutant. It must be of a size sufficient to prevent its movement from the site by wave or current action. The riprap material must consist of clean rock or masonry materials, such as but not limited to, granite or broken concrete.

Mitigation

NOTE: This project will permanently impact approximately 0.17 acres of 404 wetlands and will temporarily impact approximately 0.01 acres of 404 wetlands. This project will permanently impact <0.01 acres of surface waters and will temporarily impact <0.01 acres of surface waters.

22) Due to the possibility that compaction, mechanized clearing and/or other site alterations might prevent the temporary wetland impact area from re-attaining jurisdictional wetland status, the permittee shall provide an annual update on the wetland areas temporarily impacted by this project. This annual update will consist of photographs provided during the agency monitoring report meeting and a brief report on the progress of these temporarily impacted areas in re-attaining wetland jurisdictional status. Three years after project completion, the permittee shall schedule an agency field meeting with DCM, the NC Division of Water Quality and the NC Wildlife Resources Commission to determine if the wetland areas temporarily impacted by this project have re-attained jurisdictional wetland status. If at the end of 3 years the wetland areas temporarily impacted by this project have not re-attained jurisdictional wetland status, NC DCM and the above listed agencies shall determine whether a compensatory wetland mitigation plan will be required.

ADDITIONAL CONDITIONS

23) In accordance with the 7/22/03 Memorandum of Agreement (MOA) between the N.C. Department of Transportation (NCDOT), N.C. Department of Environment and Natural Resources (DENR) and the U.S. Army Corps of Engineers (USACE), compensatory mitigation for 0.17 acres of permanent 404 wetland impacts associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP).

Sedimentation and Erosion Control

24) The permittee shall follow Best Management Practices for the protection of Surface Waters and sedimentation and erosion control measures sufficient to protect aquatic resources.

25) Appropriate sedimentation and erosion control devices, measures or structures must be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).

26) This project must conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.

27) In order to protect water quality, runoff from the construction must not visibly increase the amount of suspended sediments in adjacent waters.

28) All disturbed areas shall be properly graded and provided a ground cover sufficient to restrain erosion within thirty days of project completion.

General

29) The authorized activity will not cause an unacceptable interference with navigation.

30) Any relocation of utility lines that is not already depicted on the attached work plan drawings, or described within the attached permit application, will require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.

31) If the permittee determines that additional permanent and/or temporary impacts will occur that are not shown on the attached permit drawings, additional authorization from DCM will be required.

32) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

33) The N.C. Division of Water Quality (DWQ) has authorized the proposed project under a General Water Quality Certification (DWQ Project No. 04-0363), which was issued on 3/11/04. Any violation of the Certification approved by the DWQ will be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 23/33 (COE Action ID No. 200100914), which was issued on 5/20/04.

ADDITIONAL CONDITIONS

NOTE: The NC Division of Water Quality (DWQ) reviewed the proposed activity of this project for the applicability of the Stormwater Management rules and determined that the development activity, as proposed at this site, is not subject to the stormwater requirements as provided for in 15A NCAC 2H .1000. If at any time in the future, development of any part of this site is planned or if proposed activities differ in any manner from what is shown on the plans on file with DWQ, the permittee must submit the project to DWQ and DCM for review and additional authorization from DCM may be required.

NCDENR
North Carolina Department of Environment and Natural Resources
Division of Coastal Management
Michael F. Easley, Governor **Charles S. Jones, Director** William G. Ross Jr., Secretary

May 26, 2004

Gregory J. Thorpe, Ph.D.
NC Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

Dear Dr. Thorpe:

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 require 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

1638 Mail Service Center, Raleigh, North Carolina 27699-1638
Phone: 919-733-2293 \ FAX: 919-733-1495 \ Internet: http://dcm2.enr.state.nc.us

Permit Class
NEW

Permit Number
80-04

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

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

X Excavation and/or filling pursuant to NCGS 113-229

Issued to **N.C. Department of Transportation, 1548 Mail Service Center, Raleigh, NC 27699-1548**

Authorizing development in Brunswick County at Town Creek, Bridge No. 61 on NC 133 (TIP No. B-3115), as requested in the permittee's application dated 3/5/04 and 4/2/04, including the attached workplan drawings (11): 1 dated 11/18/03; 3 dated 2/9/04; and 6 dated 2/20/04

This permit, issued on **5/26/04**, 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.

B-3115, Bridge Replacement

1) Due to the presence of the endangered Shortnose Sturgeon and other anadromous fish, no in-water or in-marsh work shall be conducted from February 1st to June 30th of any year without prior approval of the NC Division of Coastal Management (DCM), in consultation with the NC Division of Marine Fisheries (DMF), the NC Wildlife Resources Commission (WRC), and the US Army Corps of Engineers (USACE). For purposes of this mortorium, in-water is defined as those areas that are inundated at any time during construction, including the waters or contiguous marsh of Town Creek.

2) The permittee shall implement NC DOT's Stream Crossing Guidelines for Anadromous Fish Passage.

(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.

Doug V Huggett for

Charles S. Jones, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee

ADDITIONAL CONDITIONS

3) Turbidity curtains shall be used to contain all bottom disturbing activities, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains are to be properly maintained and retained in the water until construction is complete and turbidity within the curtains reaches ambient levels. The turbidity curtains shall be installed parallel to the stream banks on each side of the stream, extend past the construction limits, and attach to the silt fences containing the work site. The turbidity curtains shall not encircle a work area or extend across the streams. Turbidity curtains are to be retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means.

4) In accordance with project commitments made within the Categorical Exclusion document dated June 2002, Design Standards for Sensitive Watersheds will be used to ensure the project will not adversely affect the endangered Shortnose Sturgeon and anadromous fish.

5) In accordance with project commitments made within the Categorical Exclusion document dated June 2002, "Guidelines for Avoiding Impacts to the West Indian Manatee, Precautionary Measures for Construction Activities in North Carolina Waters" will be used to ensure the project will not adversely affect the endangered West Indian Manatee. The most recent version of these guidelines, revised 6/2003, shall be followed.

6) The NCDOT document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during demolition and construction activities.

7) Debris resulting from demolition of the existing bridge, including deck components, shall not enter wetlands or waters of the United States, even temporarily.

8) All excavated materials and debris associated with the removal of the existing bridge and temporary work bridge will be disposed of on an approved upland site.

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 NC Division of Marine Fisheries Morehead City office at (252) 726-7021 to coordinate review of the suitability of the material and arrangements for such use.

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11) Work barges shall be floated into place and then sunk. They shall not be sunk then dragged into place.

12) The temporary work bridges shall be removed within 90 days of project completion or within 30 days of the moratorium end date if the project is completed while the moratorium is in effect.

ADDITIONAL CONDITIONS

13) Existing bridge pilings shall be extracted or removed flush with the streambed.

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15) The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized.

16) There shall be no clearing or grubbing in wetlands outside of the area indicated on the workplan drawing(s).

17) No excavation will occur within waters or wetlands of the State.

18) All excavated materials will be confined above normal high water 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.

19) The fill material will be clean and free of any pollutants except in trace quantities.

20) Live concrete shall not be allowed to contact the water in or entering into the stream.

21) Placement of riprap shall be limited to the areas as depicted on the attached work plan drawings. The riprap material must be free from loose dirt or any pollutant. It must be of a size sufficient to prevent its movement from the site by wave or current action. The riprap material must consist of clean rock or masonry materials, such as but not limited to, granite or broken concrete.

Mitigation

NOTE: This project will permanently impact approximately 0.17 acres of 404 wetlands and will temporarily impact approximately 0.01 acres of 404 wetlands. This project will permanently impact <0.01 acres of surface waters and will temporarily impact <0.01 acres of surface waters.

22) Due to the possibility that compaction, mechanized clearing and/or other site alterations might prevent the temporary wetland impact area from re-attaining jurisdictional wetland status, the permittee shall provide an annual update on the wetland areas temporarily impacted by this project. This annual update will consist of photographs provided during the agency monitoring report meeting and a brief report on the progress of these temporarily impacted areas in re-attaining wetland jurisdictional status. Three years after project completion, the permittee shall schedule an agency field meeting with DCM, the NC Division of Water Quality and the NC Wildlife Resources Commission to determine if the wetland areas temporarily impacted by this project have re-attained jurisdictional wetland status. If at the end of 3 years the wetland areas temporarily impacted by this project have not re-attained jurisdictional wetland status, NC DCM and the above listed agencies shall determine whether a compensatory wetland mitigation plan will be required.

ADDITIONAL CONDITIONS

23) In accordance with the 7/22/03 Memorandum of Agreement (MOA) between the N.C. Department of Transportation (NCDOT), N.C. Department of Environment and Natural Resources (DENR) and the U.S. Army Corps of Engineers (USACE), compensatory mitigation for 0.17 acres of permanent 404 wetland impacts associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP).

Sedimentation and Erosion Control

24) The permittee shall follow Best Management Practices for the protection of Surface Waters and sedimentation and erosion control measures sufficient to protect aquatic resources.

25) Appropriate sedimentation and erosion control devices, measures or structures must be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).

26) This project must conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.

27) In order to protect water quality, runoff from the construction must not visibly increase the amount of suspended sediments in adjacent waters.

28) All disturbed areas shall be properly graded and provided a ground cover sufficient to restrain erosion within thirty days of project completion.

General

29) The authorized activity will not cause an unacceptable interference with navigation.

30) Any relocation of utility lines that is not already depicted on the attached work plan drawings, or described within the attached permit application, will require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.

31) If the permittee determines that additional permanent and/or temporary impacts will occur that are not shown on the attached permit drawings, additional authorization from DCM will be required.

32) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

33) The N.C. Division of Water Quality (DWQ) has authorized the proposed project under a General Water Quality Certification (DWQ Project No. 04-0363), which was issued on 3/11/04. Any violation of the Certification approved by the DWQ will be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 23/33 (COE Action ID No. 200100914), which was issued on 5/20/04.

ADDITIONAL CONDITIONS

NOTE: The NC Division of Water Quality (DWQ) reviewed the proposed activity of this project for the applicability of the Stormwater Management rules and determined that the development activity, as proposed at this site, is not subject to the stormwater requirements as provided for in 15A NCAC 2H .1000. If at any time in the future, development of any part of this site is planned or if proposed activities differ in any manner from what is shown on the plans on file with DWQ, the permittee must submit the project to DWQ and DCM for review and additional authorization from DCM may be required.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

April 2, 2004

N.C. Department of Environment and Natural Resources
Division of Coastal Management
151-B Hwy 24
Hestron Plaza II
Morehead City, NC 28557

Attention: Mr. Bill Arrington
District Manager

Dear Sir:

Subject: **Amendment to Application for CAMA Major Development Permit** for the proposed replacement of Bridge No. 61 on NC 133 over Town Creek in Brunswick County, NCDOT Division 3. Federal Project No. BRSTP-133(1), State Project No. 8.1231401, WBS Element: 32874.1.1, TIP No. B-3115

Please see the following amended items for the permit application sent March 12, 2004.

Bridge Demolition (Page 2)

The Final 1999 NCDOT's Best Management Practices for Bridge Demolition and Removal states that "If a CAMA permit is required, dropping any components of a bridge into the water will not be acceptable unless it is proven that there is no feasible alternative. Such an activity would require coordination with and approval of CAMA."
Therefore, language in the permit application for bridge demolition will change to the following:

Bridge Demolition: Bridge No. 61 is 300 feet long and 26.4 feet wide. It has a reinforced concrete deck on steel I-beams with concrete caps on timber piles. Best Management Practices for Bridge Demolition and Removal, which dictates that all existing structures over water be removed by non-shattering methods, will be followed during demolition and construction. *Bridge No. 61 will be removed without dropping any components into the surface waters. If during construction it is determined that this is not feasible, then an alternate bridge demolition plan will be coordinated with the Division of Coastal Management.* ~~The bridge will be removed in pieces that remain in place on the caps until they are removed by the crane. If any portion of concrete drops in the water, every effort is~~

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

TELEPHONE: 919-715-1500
FAX: 919-715-1501

WEBSITE: WWW.NCDOT.ORG

LOCATION:
2728 CAPITAL BLVD
PLB SUITE 168
RALEIGH NC 27604

~~made to remove these from the water.~~ Turbidity curtains shall be installed along the banks of Town Creek to help prevent components of the existing bridge from entering the watercourse. NCDOT will adhere to a moratorium allowing no work in water during the period of February 1 through June 15 to protect the shortnose sturgeon and other anadromous fish.

Piles and Bents (Include new information with **PROPOSED IMPACTS TO WATERS OF THE UNITED STATES** section on page 2)

Pile Installation :
The bridge will have pre-stressed concrete driven piles. Since the piles will not be jetted and therefore cannot be driven as deep, they will be in a braced A-frame form. The square piles will be 65 feet by 20 square feet. Subsequently, the bents are located in the water at four locations across the creek.

Page 4. Mitigation Options. The statement concerning supporting structures will be removed.

AVOIDANCE AND MINIMIZATION: Specific avoidance and minimization measures for this project include using a maximum slope of 3:1 and replacing the existing bridge in its current location with an off-site detour. ~~The new bridge will span the entire width of Town Creek with none of the supporting structures installed in the water~~. The tidal freshwater marsh will not be impacted because the new bridge will span this community as well.

Thank you for your assistance with this project. If you have any questions or need additional information please call Carla Dagnino at (919) 715-1456.

Sincerely

for E. L. Lusk

Gregory J. Thorpe, Ph.D
Environmental Management Director, PDEA

cc:
Ms. Cathy Brittingham, NCDCM
Mr. Bill Biddlecomb, USACE, Washington
Mr. Travis Wilson, NCWRC
Mr. Ron Sechler, NMFS
Mr. Mike Street, NCDMF
Mr. Omar Sultan, Programming and TIP
Mr. Greg Perfetti, P.E., Structure Design
Mr. H. Allen Pope, PE; Division 3 Engineer
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Mr. John Hennessy, DWQ, Raleigh
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Mr. David Chang, P.E., Hydraulics
Mr. Mark Staley, Roadside Environmental
Mr. Mason Herndon, DIV 3 DEO

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

March 12, 2004

N.C. Department of Environment and Natural Resources
Division of Coastal Management
151-B Hwy 24
Hestron Plaza II
Morehead City, NC 28557

Attention: Mr. Bill Arrington
District Manager

Dear Sir:

Subject: **Application for CAMA Major Development Permit** for the proposed replacement of Bridge No. 61 on NC 133 over Town Creek in Brunswick County, NCDOT Division 3. Federal Project No. BRSTP-133(1), State Project No. 8.1231401, WBS Element: 32874.1.1, TIP No. B-3115

The North Carolina Department of Transportation (NCDOT) proposes to replace Bridge No. 61 over Town Creek on NC133. Bridge No. 61 will be replaced on the existing alignment with a new bridge approximately 300 feet in length and a with cleared roadway width of 32 feet. The approaches will include two 12 foot lanes with 8 foot shoulders. Permanent impacts to non coastal wetlands associated with the replacement of Bridge No. 61 will include 0.10 acre of permanent fill and 0.07 acre of mechanized clearing. The traffic will be detoured to NC 87 during bridge construction.

Please find enclosed copies of the Coastal Area Management Act (CAMA) permit application (MP1 and MP5), Categorical Exclusion (CE), permit drawings, half size plans, a North Carolina Division of Water Quality Stormwater Exemption letter, Guidelines for Avoiding Impacts to the West Indian Manatee, an EEP Request Letter, green cards from the Adjacent Riparian Land Owners and a method of debiting $400 to be submitted to the DCM for processing the CAMA permit.

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According to Bridge Maintenance records, the sufficiency rating of the bridge is 27.9 out of a possible 100. The new bridge will provide wider road shoulders on either side of the structure which will increase the safety rating for the bridge.

Town Creek is located in the Cape Fear River Basin (Hydrological Cataloguing Unit 03030005) and classified by the Division of Water Quality as C-Sw. Class C refers to waters suitable for aquatic life propagation and survival, fishing, wildlife, secondary recreation and agriculture. The Sw (swamp waters) sub-classification is a supplemental classification intended to recognize those waters having naturally occurring low velocities, low pH and low dissolved oxygen. Town Creek is also classified as an Anadromous Fish Stream.

Area of Environmental Concern (AEC): Town Creek is considered Public Trust Water at the location where bridge No. 61 crosses the creek. The bridge height is considered for this AEC.

PROPOSED IMPACTS TO WATERS OF THE UNITED STATES

Bridge Demolition: Bridge No. 61 is 300 feet long and 26.4 feet wide. It has a reinforced concrete deck on steel I-beams with concrete caps on timber piles. Best Management Practices for Bridge Demolition and Removal, which dictates that all existing structures over water be removed by non-shattering methods, will be followed during demolition and construction. Bridge No. 61 will be removed with less than 5 cubic yards of temporary fill in the wetland or surface water. The bridge will be removed in pieces that remain in place on the caps until they are removed by the crane. If any portion of concrete drops in the water, every effort is made to remove these from the water. Turbidity curtains shall be installed along the banks of Town Creek to help prevent components of the existing bridge from entering the watercourse. NCDOT will adhere to a moratorium allowing no work in water during the period of February 1 through June 15 to protect the shortnose sturgeon and other anadromous fish.

Permanent Impacts: The permit drawings report wetland impacts of 0.10 acre of permanent fill and 0.07 acre of mechanized clearing. The permanent fill is due to the piers for the proposed structure. The mechanized clearing is due to roadway embankment. There will be no marsh or coastal wetlands impacted. There will be less than 0.01 acres of fill in surface water from the piers for the proposed bridge structure.

Temporary Impacts: There will be less than 0.01 acres of fill in non-coastal wetlands due to the piles for the temporary work bridges. There will be less than 0.01 acres of fill in the surface water due to the piles from the temporary work bridges.

- **Schedule for Construction**: It is assumed that the Contractor will begin construction of the proposed temporary work bridge shortly after the date of availability for the project. The Let date is July 20, 2004 with a date of availability of August 25, 2004.

- **Restoration Plan**: Following the construction of the temporary work bridge, the construction of the permanent bridge will be completed. Once the temporary work bridge is no longer needed, all material used in the construction of the temporary work bridge will be removed. The temporary impact area associated with the work bridge is expected to recover naturally. Restoration of the project area will take place immediately following project completion and prior to traffic flow to the new bridge.

- **Removal and Disposal Plan**: After the temporary work bridge is no longer needed, all temporary work bridge material will become the property of the contractor. The contractor will be required to submit a reclamation plan for the removal and disposal of all work bridge material and demolished bridge material to an off-site upland location.

Utility Relocation: There are four utility lines located at the project site. NCDOT's Utility-Right-of-Way (Unit 3) has provided relocation plans for two utilities (Bell South and AT&T). Preliminary relocation plans were also provided for Brunswick EMC and Time Warner. At this time our data indicate that there will be no CAMA or Section 404 jurisdictional resources impacted. If final plans result in 404 and/or CAMA impacts, NCDOT will apply for a Nationwide 12 Permit.

PROTECTED SPECIES

Threatened and Endangered Species: Plants and animals with federal classification of Endangered, Threatened, Proposed Endangered and Proposed Threatened are protected under provisions of Section 7 and Section 9 of the Endangered Species Act of 1973, as amended. As of January 29, 2003, the U.S. Fish and Wildlife Service (USFWS) lists 14 federally protected species for Brunswick County. In August 1999 a survey for the federally protected species found that habitat does exist for the endangered woodstork (*Mycteria americana*), roughed-leaved loosestrife (*Lysimachia asperulaefolia),* Cooley's Meadowrue (*Thalictrun cooleyi*) and the threatened bald eagle (*Halieetus leucocephalus*) species. Currently these species receive biological conclusions of "Unresolved". However, another survey will be conducted for each of these species in May of 2004, prior to construction. Biological conclusions of "No Effect" for each of the remaining species are valid and are presented in the attached CE.

- **West Indian Manatee**: The U.S. Fish and Wildlife Service has developed a list of "Precautions for the general construction in areas which may be used by the

West Indian manatee in North Carolina". These precautions will be considered in all aspects of project construction (see attached precaution instructions).

- **Shortnose Sturgeon**: To ensure the project will not adversely affect the endangered shortnose sturgeon, explosives will not be used in the bridge demolition. To protect the shortnose sturgeon and other anadromous fish, there will be no in-water or in-marsh activity during the months of February 1 through June 15.

Essential Fish Habitat: The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act (MSFCMA) set forth a new mandate for the National Marine Fisheries Service (NMFS), regional fishery management councils (FMC) and other Federal agencies to identify and protect important marine and anadromous fish habitat. The FMCs, with the assistance from NMFS, have delineated "essential fish habitat" (EFH) for managed species. In the South Atlantic region, waterbodies in Brunswick County are listed in which EFHs are found. Town Creek is not a listed waterbody for EFHs. Therefore the rules of the MSFCMA will not apply for this project

MITIGATION OPTIONS

AVOIDANCE AND MINIMIZATION: Specific avoidance and minimization measures for this project include using a maximum slope of 3:1 and replacing the existing bridge in its current location with an off-site detour. The new bridge will span the entire width of Town Creek with none of the supporting structures installed in the water. The tidal freshwater marsh will not be impacted because the new bridge will span this community as well.

Turbidity curtains shall be used to contain all bottom disturbing activities, including pile or casement installation, placement of rip/rap, excavation or filling within the watercourse of Town Creek. The NCDOT shall install turbidity curtains along the banks of Town creek to prevent sediment from the causeway restoration area from entering the watercourse. The turbidity curtains will be properly maintained and retained in the water until construction is complete and turbidity within the curtains reaches ambient levels.

COMPENSATION: This project will permanently impact a total of 0.17 acre of non-coastal wetlands. Despite the minimization strategies employed for the proposed project, the resulting wetland impacts will be greater than 0.1 acre and will require mitigation.

Based upon the agreements stipulated in the "Memorandum of Agreement Among the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the U.S. Army Corps of Engineers, Wilmington District (MOA)", it is understood that the North Carolina Department of Environment and Natural Resources Ecological Enhancement Program (EEP), will assume responsibility for satisfying the

Section 404 compensatory mitigation requirements for NCDOT projects that are listed in Exhibit 1 of the subject MOA during the Ecological Enhancement Program (EEP) transition period which ends on July 1, 2005.

Since the subject project is listed in *Exhibit 1* the necessary compensatory mitigation to offset unavoidable impacts to waters that are jurisdictional under the federal Clean Water Act will be provided by the EEP (see attached letter to EEP). The offsetting mitigation will derive from an inventory of assets already in existence within the same Ecoregion and the same 8-digit cataloguing unit. We have avoided and minimized the impacts to jurisdictional resources to the greatest extent possible as described above. The remaining, unavoidable impacts to 0.17 acre of jurisdictional wetlands will be offset by compensatory mitigation provided by the EEP program.

REGULATORY APPROVALS

NCDOT requests that the proposed work be authorized under a Coastal Area Management Act Major Development Permit. NCDOT will also be applying for issuance of a United States Army Corps of Engineers NWP 23 and NWP 33 and a section 401 Water Quality Certification from the North Carolina Division of Water Quality under a separate cover.

Thank you for your assistance with this project. If you have any questions or need additional information please call Carla Dagnino at (919) 715-1456.

Sincerely

Gregory J. Thorpe, Ph.D
Environmental Management Director, PDEA

cc:
Ms. Cathy Brittingham, NCDCM
Mr. Bill Biddlecomb, USACE, Washington
Mr. Travis Wilson, NCWRC
Mr. Ron Sechler, NMFS
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Mr. David Chang, P.E., Hydraulics
Mr. Mark Staley, Roadside Environmental
Mr. Mason Herndon, DIV 3 DEO

Form DCM-MP-1

APPLICATION

(To be completed by all applicants)

1. APPLICANT

a. Landowner:

Name **N. C. Department of Transportation**
Address **1548 Mail Service Center**

City **Raleigh** State **NC**

Zip **27699** Day Phone **(919) 733-3141**

Fax **(919) 733-9794**

b. Authorized Agent:

Name _____

Address _____

City _____ State _____
Zip _____ Day Phone _____
Fax _____

c. Project name (if any) **B-3115 (8.1231401)**
Bridge No. 61 over Town Creek on NC 133

NOTE: Permit will be issued in name of landowner(s), and/or project name.

2. LOCATION OF PROPOSED PROJECT

a. County **Brunswick**

b. City, town, community or landmark
South of the town of Claredon and North Of the Town of Pinelevel

c. Street address or secondary road number
NC 133

d. Is proposed work within city limits or planning jurisdiction? _____ Yes **X** No

e. Name of body of water nearest project (e.g. river, creek, sound, bay) **Town Creek**

3. DESCRIPTION AND PLANNED USE OF PROPOSED PROJECT

a. List all development activities you propose (e.g. building a home, motel, marina, bulkhead, pier, and excavation and/or filling activities.
Replacing existing bridge with a new bridge.. This will include wider shoulders on the bridge and provides more safety when crossing the bridge.

b. Is the proposed activity maintenance of an existing project, new work, or both? **new work**

c. Will the project be for public, private or commercial use? **Public transportation**

d. Give a brief description of purpose, use, methods of construction and daily operations of proposed project. If more space is needed, please attach additional pages. **Purpose of project is to provide public transportation. Work Bridges and Barges will be used to reduce impacts in the creek and adjacent wetlands.**

4. LAND AND WATER CHARACTERISTICS

a. Size of entire tract **2.5 acres**

b. Size of individual lot(s) **N/A**

c. Approximate elevation of tract above MHW or NWL
0 - 10 feet

d. Soil type(s) and texture(s) of tract
Chowan silt loam (ch); Baymeade Fine Sand (BaB)

e. Vegetation on tract: **Tidal Freshwater/Brackish Marsh; Bottomland Hardwood Forest; Upland Pine Forest**

f. Man-made features now on tract **existing bridge, roadway, and utilities**

g. What is the CAMA Land Use Plan land classification of the site? *(Consult the local land use plan.)*

____ Conservation ____ Transitional
____ Developed ____ Community
__X__ Rural ____ Other

h. How is the tract zoned by local government?
Zoned for some commercial, some residential, see Tax map #86.

i. Is the proposed project consistent with the applicable zoning? __X__ Yes ____ No
(Attach zoning compliance certificate, if applicable)

j. Has a professional archaeological assessment been done for the tract? ____ Yes __X__ No
If yes, by whom? _____

k. Is the project located in a National Registered Historic District or does it involve a National Register listed or eligible property?
____ Yes __X__ No

l. Are there wetlands on the site? __X__ Yes ___ No
Coastal (marsh) __X__ Other __X__
If yes, has a delineation been conducted? **YES**
(Attach documentation, if available)

m. Describe existing wastewater treatment facilities.
N/A

n. Describe location and type of discharges to waters of the state. (For example, surface runoff, sanitary wastewater, industrial/commercial effluent, "wash down" and residential discharges.)
surface runoff

o. Describe existing drinking water supply source.
N/A

5. ADDITIONAL INFORMATION

In addition to the completed application form, the following items must be submitted:

- **A copy of the deed** (with state application only) or other instrument under which the applicant claims title to the affected properties. If the applicant is not claiming to be the owner of said property, then forward a copy of the deed or other instrument under which the owner claims title, plus written permission from the owner to carry out the project.

- **An accurate, dated work plat** (including plan view and cross-sectional drawings) drawn to scale in black ink on an 8 1/2" by 11" white paper. (Refer to Coastal Resources Commission Rule 7J.0203 for a detailed description.)

  Please note that original drawings are preferred and only high quality copies will be accepted. Blue-line prints or other larger plats are acceptable only if an adequate number of quality copies are provided by applicant. (Contact the U.S. Army Corps of Engineers regarding that agency's use of larger drawings.) A site or location map is a part of plat requirements and it must be sufficiently detailed to guide agency personnel unfamiliar with the area to the site. Include highway or secondary road (SR) numbers, landmarks, and the like.

- **A Stormwater Certification**, if one is necessary.

- A list of the **names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail.** Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management. Upon signing this form, the applicant further certifies that such notice has been provided.

Name T.F. Holdings
Address 1202 Eastwood Rd.
Wilmington, NC 28403

Name David R. Harless
Address 2765 River Rd., SE
Winnabow, NC 28479

Name J Clark Hipp
Address 504 Dock St.
Wilmington, NC 38401

Name W.C. Warwick, III
Address 9165 River Oaks Lane SE
Winnabow, NC 28479

Name Mr Brian McMerty
Address 3048 River Road SE
Winnabow, NC 28479,

- **A list of previous state or federal permits** issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

_____

- **A check for $250** made payable to the Department of Environment, Health, and Natural Resources (DEHNR) to cover the costs of processing the application.

- **A signed AEC hazard notice** for projects in oceanfront and inlet areas.

- **A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A - 1 to 10)** If the project involves the expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

6. CERTIFICATION AND PERMISSION TO ENTER ON LAND

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to conditions and restrictions contained in the permit.

I certify that to the best of my knowledge, the proposed activity complies with the State of North Carolina's approved Coastal Management Program and will be conducted in a manner consistent with such program.

I certify that I am authorized to grant, and do in fact, grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

This is the 5 day of March, 2004.

Print Name Philip S. Hewitt

Signature _____
Landowner or Authorized Agent

Please indicate attachments pertaining to your proposed project.

___ DCM MP-2 Excavation and Fill Information
___ DCM MP-3 Upland Development
___ DCM MP-4 Structures Information
___ DCM MP-5 Bridges and Culverts
___ DCM MP-6 Marina Development

NOTE: Please sign and date each attachment in the space provided at the bottom of each form.

Form DCM-MP-5

BRIDGES AND CULVERTS

Attach this form to Joint Application for CAMA Major Permit, Form DCM-MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project.

1. BRIDGES

a. Public __X__ Private _____

b. Type of bridge (construction material)
concrete - cored slab

c. Water body to be crossed by bridge
Town Creek

d. Water depth at the proposed crossing at MLW or NWL **30 Feet**

e. Will proposed bridge replace an existing bridge?
__X__ Yes ____ No
If yes,
(1) Length of existing bridge **300 ft**
(2) Width of existing bridge **24.0 ft**
(3) Navigation clearance underneath existing bridge **6.0 ft**
(4) Will all, or a part of, the existing bridge be removed? (Explain) **all of the existing bridge will be removed.**

f. Will proposed bridge replace an existing culvert(s)?
____ Yes __X__ No
If yes,
(1) Length of existing culvert **N/A**
(2) Width of existing culvert **N/A**
(3) Height of the top of the existing culvert above the MHW or NWL **N/A**
(4) Will all, or a part of, the existing culvert be removed? (Explain) **N/A**

g. Length of proposed bridge **300 ft**

h. Width of proposed bridge **36 ft**

i. Height of proposed bridge above wetlands
10 ft

j. Will the proposed bridge affect existing water flow?
__X__ Yes ____ No
If yes, explain **The low chord on the proposed brid is 2 ft +/- higher than that of the existing structure. Therefore there is more flow area under the bridge**

k. Navigation clearance underneath proposed bridge
8.0 ft

l. Will the proposed bridge affect navigation by reducing or increasing the existing navigable opening? _X___ Yes ___No
If yes, explain **The low chord on the proposed bridg is 2 ft +/- higher than that of the existing structure. Therefore there is more area to navigate under the bridge**

m. Will the proposed bridge cross wetlands containing no navigable waters? ____ Yes __X__ No
If yes, explain _____

n. Have you contacted the U.S. Coast Guard concerning their approval?
____ Yes __X__ No
If yes, please provide record of their action.

2. CULVERTS N/A

a. Water body in which culvert is to be placed _____

b. Number of culverts proposed _____

c. Type of culvert (construction material, style) _____

d. Will proposed culvert replace an existing bridge?
____ Yes ____ No
If yes,
(1) Length of existing bridge _____
(2) Width of existing bridge _____
(3) Navigation clearance underneath existing bridge _____
(4) Will all, or a part of, the existing bridge be removed? (Explain) _____

e. Will proposed culvert replace an existing culvert?
____ Yes ____ No
If yes,
(1) Length of existing culvert _____
(2) Width of existing culvert _____
(3) Height of the top of the existing culvert above the MHW or NWL _____
(4) Will all, or a part of, the existing culvert be removed? (Explain) _____
_____
_____

f. Length of proposed culvert _____

g. Width of proposed culvert _____

h. Height of the top of the proposed culvert above the MHW or NWL _____

i. Will the proposed culvert affect existing water flow?
____ Yes ____ No
If yes, explain _____
_____

j. Will the proposed culvert affect existing navigation potential? ____ Yes ____ No
If yes, explain _____
_____

3. EXCAVATION AND FILL

a. Will the placement of the proposed bridge or culvert require any excavation below the MHW or NWL?
___ Yes _X___ No
If yes,
(1) Length of area to be excavated _____
(2) Width of area to be excavated _____
(3) Depth of area to be excavated _____
(4) Amount of material to be excavated in cubic yards _____

b. Will the placement of the proposed bridge or culvert require any excavation within: **NO**
__ Coastal Wetlands __ SAVs __ Other Wetlands
If yes,
(1) Length of area to be excavated _____
(2) Width of area to be excavated _____
(3) Amount of material to be excavated in cubic yards _____

c. Will the placement of the proposed bridge or culvert require any highground excavation?
___ Yes _X___ No
If yes,
(1) Length of area to be excavated _____
(2) Width of area to be excavated _____
(3) Amount of material to be excavated in cubic yards _____

d. If the placement of the bridge or culvert involves any excavation, please complete the following:
(1) Location of the spoil disposal area
To be determined by contractor.
_____
(2) Dimensions of spoil disposal area
N/A
(3) Do you claim title to the disposal area?
____ Yes **X** No
If no, attach a letter granting permission from the owner.
(4) Will the disposal area be available for future maintenance? ____ Yes **X** No
(5) Does the disposal area include any coastal wetlands (marsh), SAVs, or other wetlands?
____ Yes **X** No
If yes, give dimensions if different from (2) above. _____

(6) Does the disposal area include any area below the MHW or NWL? ____ Yes __X__ No
If yes, give dimension if different from No. 2 above. _____

e. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed below MHW or NWL? ___ Yes __X__ No
If yes,
(1) Length of area to be filled _____
(2) Width of area to be filled _____
(3) Purpose of fill _____

f. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed within:
__ Coastal Wetlands ___ SAVs __X__ Other Wetlands
If yes,
(1) Length of area to be filled **320 ft**
(2) Width of area to be filled **15 ft (avg.)**
(3) Purpose of fill **roadway embankment**

g. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed on highground? __X__ Yes ____ No
If yes,
(1) Length of area to be filled **930 ft +/-**
(2) Width of area to be filled **70 ft +/-**
(3) Purpose of fill **roadway embankment**

4. GENERAL

a. Will the proposed project involve any mitigation?
__X__ Yes ____ No
If yes, explain in detail For 0.17 acres impact in wetland

b. Will the proposed project require the relocation of any existing utility lines? ____ Yes ____ No
If yes, explain in detail

c. Will the proposed project require the construction of any temporary detour structures?
____ Yes __X__ No
If yes, explain in detail _____

d. Will the proposed project require any work channels?
____ Yes __X__ No
If yes, complete Form DCM-MP-2

e. How will excavated or fill material be kept on site and erosion controlled? **Design Standards for Sensitive Watersheds will be used.**

f. What type of construction equipment will be used (for example, dragline, backhoe or hydraulic dredge)? **Standard bridge and roadway construction equipment.**

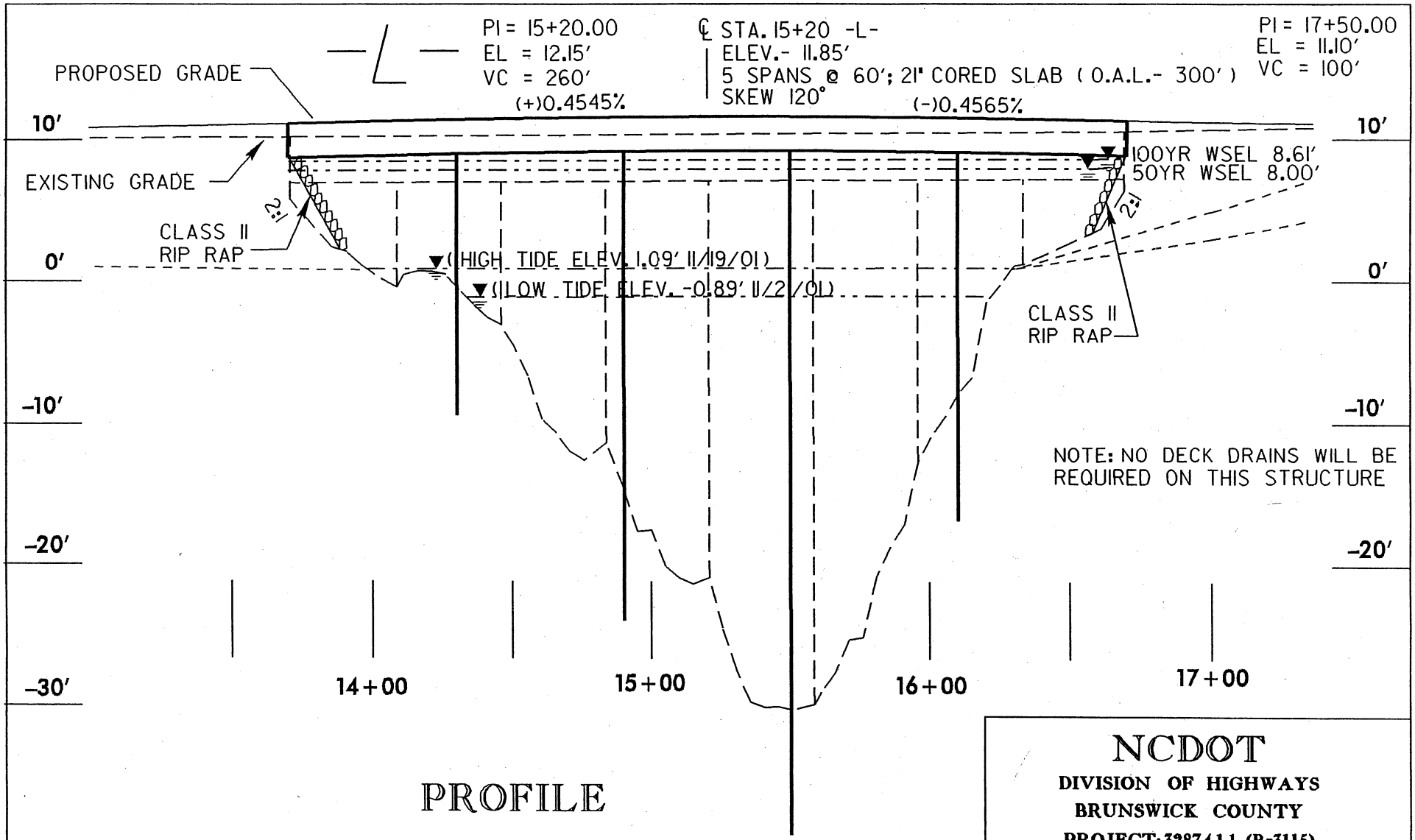
g. Will wetlands be crossed in transporting equipment to project site? __X__ Yes ____No
If yes, explain steps that will be taken to lessen environmental impacts. **Work bridges will be used to minimize impacts**

h. Will the placement of the proposed bridge or culvert require any shoreline stabilization?
____ Yes __X__ No
If yes, explain in detail _____

Philip S. Harris III
Applicant or Project Name

Signature

3/5/04
Date



PROFILE

NCDOT

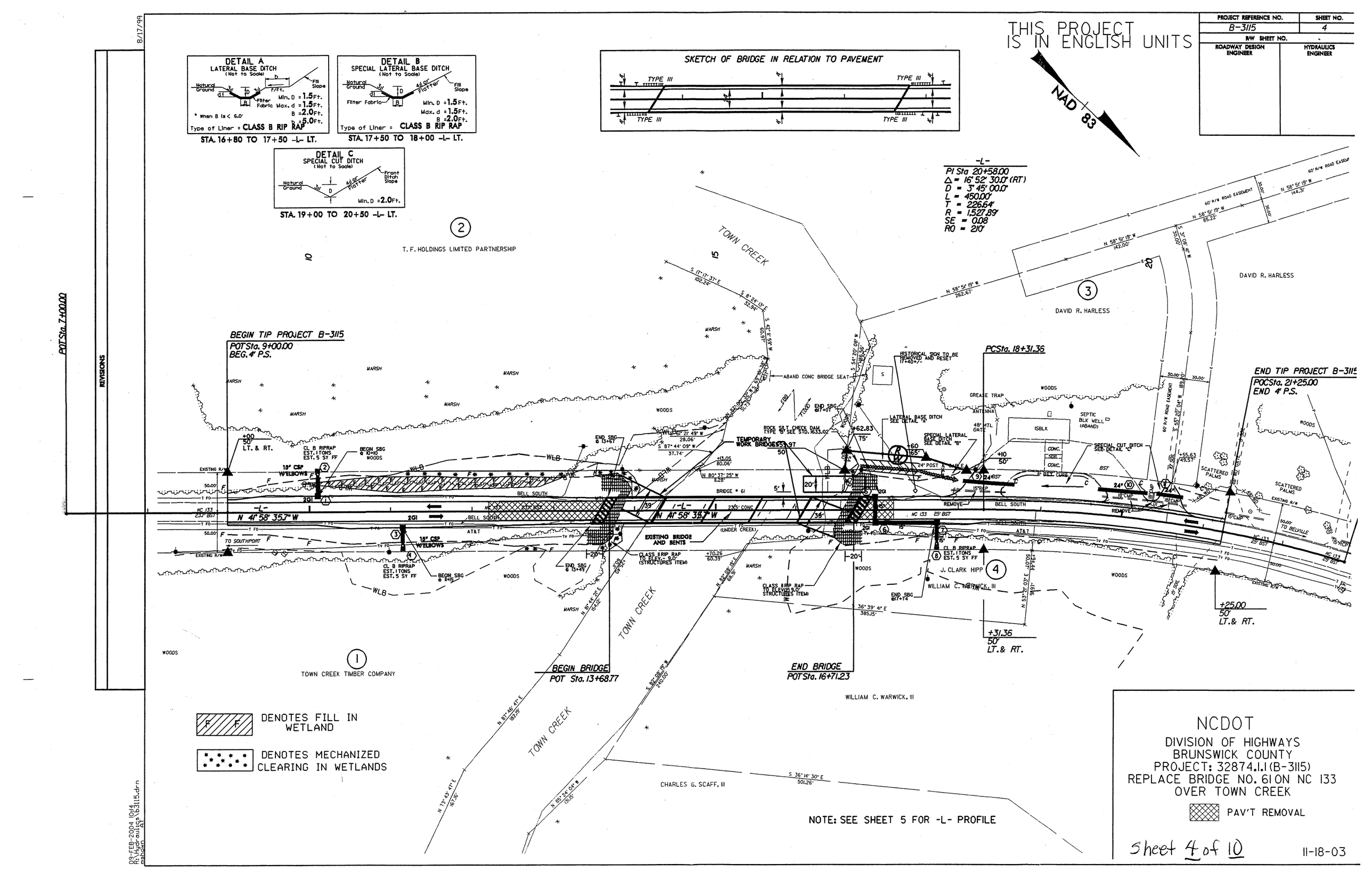
DIVISION OF HIGHWAYS

BRUNSWICK COUNTY

PROJECT: 32874.1.1 (B-3115)

REPLACE BRIDGE #61 ON NC 133 OVER TOWN CREEK

SHEET 8 OF 10 11/18/03


8/17/99
REVISIONS
POT Sta. 7+00.00
DETAIL A
LATERAL BASE DITCH
(Not to Scale)
Natural Ground
Fill Slope
Filter Fabric
Min. D = 1.5 Ft.
Max. d = 1.5 Ft.
B = 2.0 Ft.
* When B is < 6.0' B = 5.0 Ft.
Type of Liner = CLASS B RIP RAP
STA. 16+80 TO 17+50 -L- LT.
DETAIL B
SPECIAL LATERAL BASE DITCH
(Not to Scale)
Min. D = 1.5 Ft.
Max. d = 1.5 Ft.
B = 2.0 Ft.
Type of Liner = CLASS B RIP RAP
STA. 17+50 TO 18+00 -L- LT.
DETAIL C
SPECIAL CUT DITCH
(Not to Scale)
Front Ditch Slope
Min. D = 2.0 Ft.
STA. 19+00 TO 20+50 -L- LT.
SKETCH OF BRIDGE IN RELATION TO PAVEMENT
TYPE III
THIS PROJECT IS IN ENGLISH UNITS
NAD 83
PROJECT REFERENCE NO.
B-3115
SHEET NO.
4
RW SHEET NO.
ROADWAY DESIGN ENGINEER
HYDRAULICS ENGINEER
-L-
PI Sta 20+58.00
Δ = 16° 52' 30.0" (RT)
D = 3° 45' 00.0"
L = 450.00'
T = 226.64'
R = 1,527.89'
SE = 0.08
RO = 210'
BEGIN TIP PROJECT B-3115
POT Sta. 9+00.00
BEG. 4" P.S.
END TIP PROJECT B-3115
POC Sta. 21+25.00
END 4" P.S.
PC Sta. 18+31.36
BEGIN BRIDGE
POT Sta. 13+68.77
END BRIDGE
POT Sta. 16+71.23
TOWN CREEK
MARSH
WOODS
BELL SOUTH
AT&T
WLB
TO SOUTHPORT
TO BELVILLE
TEMPORARY WORK BRIDGE
EXISTING BRIDGE AND BENTS
ABAND CONC BRIDGE SEAT
HISTORICAL SIGN TO BE REMOVED AND RESET
GREASE TRAP
ANTENNA
SEPTIC BLK WELL (ABAND)
ISBLK
SCATTERED PALMS
DAVID R. HARLESS
WILLIAM C. WARWICK, III
J. CLARK HIPP
CHARLES G. SCAFF, III
TOWN CREEK TIMBER COMPANY
T. F. HOLDINGS LIMITED PARTNERSHIP
DENOTES FILL IN WETLAND
DENOTES MECHANIZED CLEARING IN WETLANDS
NOTE: SEE SHEET 5 FOR -L- PROFILE
NCDOT
DIVISION OF HIGHWAYS
BRUNSWICK COUNTY
PROJECT: 32874.1.1 (B-3115)
REPLACE BRIDGE NO. 61 ON NC 133
OVER TOWN CREEK
PAV'T REMOVAL
Sheet 4 of 10
11-18-03
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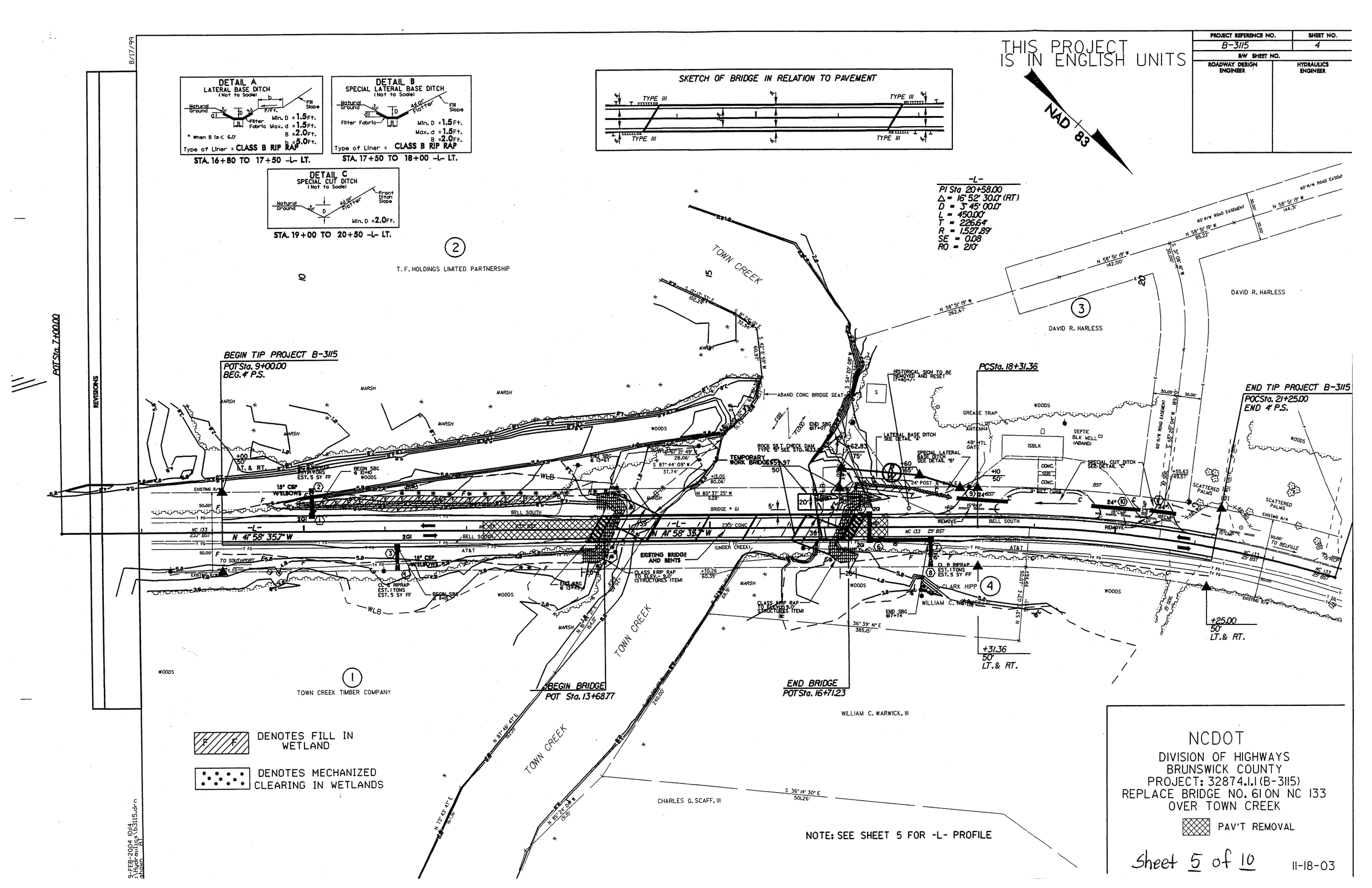
THIS PROJECT IS IN ENGLISH UNITS
NAD 83
PROJECT REFERENCE NO. B-3115
SHEET NO. 4
R/W SHEET NO.
ROADWAY DESIGN ENGINEER
HYDRAULICS ENGINEER
DETAIL A
LATERAL BASE DITCH
(Not to Scale)
Min. D = 1.5Ft.
Max. d = 1.5Ft.
B = 2.0Ft.
B = 5.0Ft.
Type of Liner = CLASS B RIP RAP
STA. 16+80 TO 17+50 -L- LT.
DETAIL B
SPECIAL LATERAL BASE DITCH
(Not to Scale)
Min. D = 1.5Ft.
Max. d = 1.5Ft.
B = 2.0Ft.
Type of Liner = CLASS B RIP RAP
STA. 17+50 TO 18+00 -L- LT.
DETAIL C
SPECIAL CUT DITCH
(Not to Scale)
Min. D = 2.0Ft.
STA. 19+00 TO 20+50 -L- LT.
SKETCH OF BRIDGE IN RELATION TO PAVEMENT
TYPE III
TYPE III
TYPE III
TYPE III
-L-
PI Sta 20+58.00
Δ = 16° 52' 30.0" (RT)
D = 3° 45' 00.0"
L = 450.00'
T = 226.64'
R = 1,527.89'
SE = 0.08
RO = 2.0'
POT Sta. 7+00.00
REVISIONS
BEGIN TIP PROJECT B-3115
POT Sta. 9+00.00
BEG. 4" P.S.
END TIP PROJECT B-3115
POC Sta. 21+25.00
END 4" P.S.
PC Sta. 18+31.36
BEGIN BRIDGE
POT Sta. 13+68.77
END BRIDGE
POT Sta. 16+71.23
TOWN CREEK
TOWN CREEK TIMBER COMPANY
T. F. HOLDINGS LIMITED PARTNERSHIP
DAVID R. HARLESS
WILLIAM C. WARWICK, III
CHARLES G. SCAFF, III
CLARK HIPP
WILLIAM C. WARWICK
MARSH
WOODS
BELL SOUTH
AT&T
ABAND CONC BRIDGE SEAT
HISTORICAL SIGN TO BE REMOVED AND RESET
GREASE TRAP
ANTENNA
ISBLK
SEPTIC BLK WELL (ABAND)
LATERAL BASE DITCH SEE DETAIL 'A'
SPECIAL LATERAL BASE DITCH SEE DETAIL 'B'
SPECIAL CUT DITCH SEE DETAIL 'C'
ROCK SILL CHECK DAM TYPE 'B' SEE STD. 633.01
TEMPORARY WORK BRIDGE
BRIDGE # 61
EXISTING BRIDGE AND BENTS
CLASS B RIP RAP TO ELEV. 6.0' (STRUCTURES ITEM)
CL B RIPRAP EST. ITONS EST. 5 SY FF
18" CSP W/ELBOWS
24" CMP
15" RCP
SCATTERED PALMS
60' R/W ROAD EASEMENT
NC 133
TO BELVILLE
TO SOUTHPORT
DENOTES FILL IN WETLAND
DENOTES MECHANIZED CLEARING IN WETLANDS
NOTE: SEE SHEET 5 FOR -L- PROFILE
NCDOT
DIVISION OF HIGHWAYS
BRUNSWICK COUNTY
PROJECT: 32874.1.1 (B-3115)
REPLACE BRIDGE NO. 61 ON NC 133
OVER TOWN CREEK
PAV'T REMOVAL
Sheet 5 of 10
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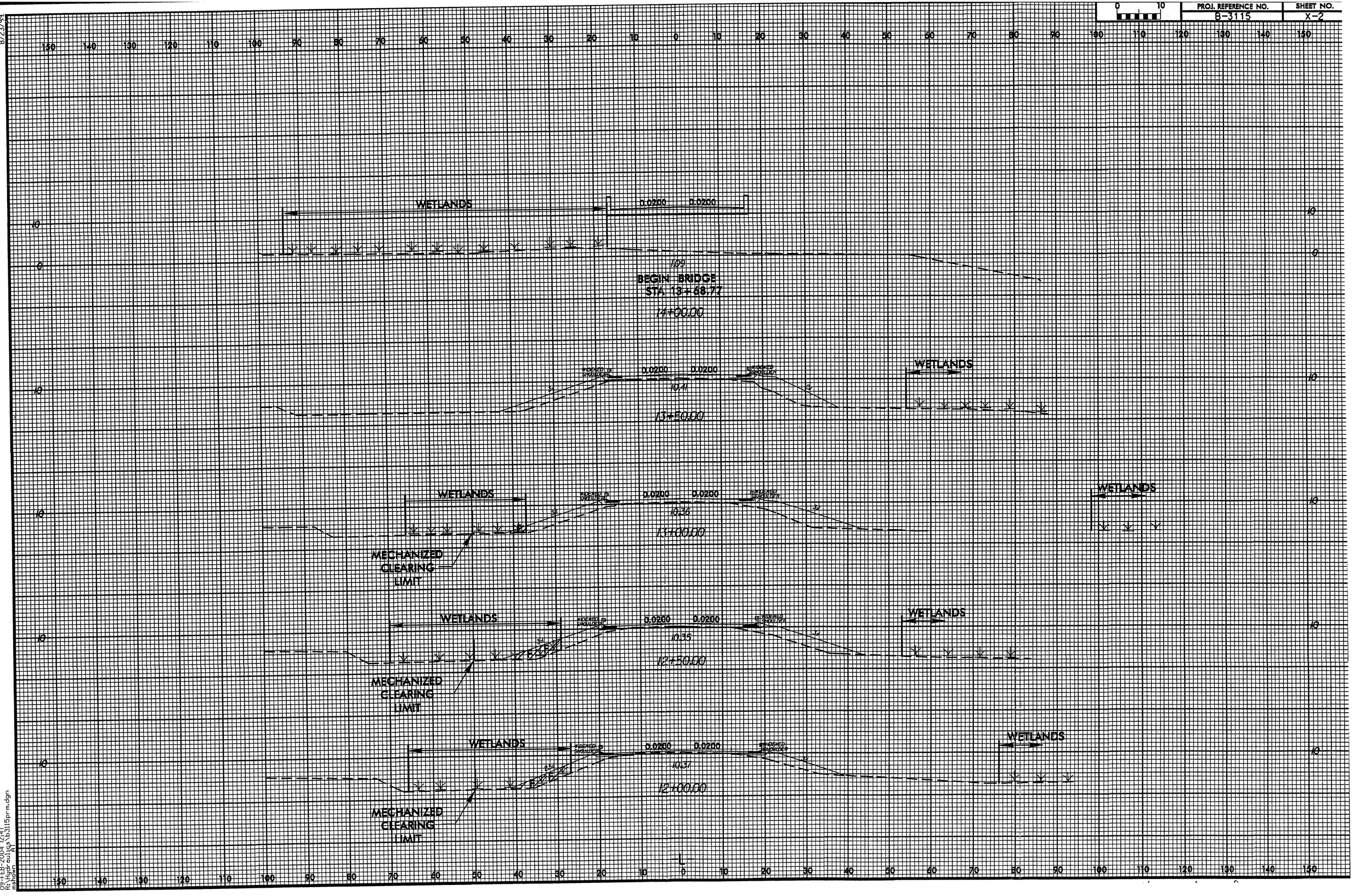
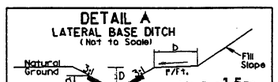


8/17/99

PROJECT REFERENCE NO.	SHEET NO.
B-3115	4
R/W SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

DETAIL A
LATERAL BASE DITCH
(Not to Scale)

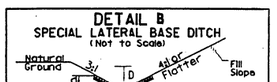


* When B is < 6.0'

Type of Liner = CLASS B RIP RAP

STA. 16+80 TO 17+50 -L- LT.

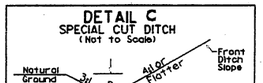
DETAIL B
SPECIAL LATERAL BASE DITCH
(Not to Scale)



Type of Liner = CLASS B RIP RAP

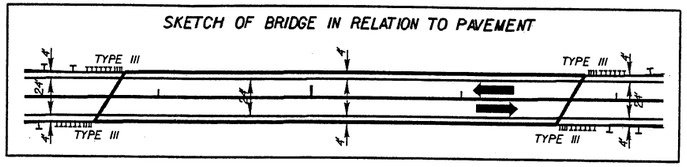
STA. 17+50 TO 18+00 -L- LT.

DETAIL C
SPECIAL CUT DITCH
(Not to Scale)



STA. 19+00 TO 20+50 -L- LT.

SKETCH OF BRIDGE IN RELATION TO PAVEMENT



NAD 83

-L-
PI Sta 20+58.00
Δ = 16° 52' 30.0" (RT)
D = 3° 45' 00.0"
L = 450.00'
T = 226.64'
R = 1,527.89'
SE = 0.08
RO = 2.10'

BEGIN TIP PROJECT B-3115
POT Sta. 9+00.00
BEG. 4" P.S.

-BL-101
12+27.59 PINC
-L- 9+58.58
17.98' LT.

BL 16+00.00 POT
-TI-200 5+00.00 POT
ELEV = 10.02'
NAIL SET
-L- 13+31.10
16.74' LT.

BEGIN APPROACH SLAB
-L- POT STA 13+57.93

BEGIN BRIDGE
POT Sta. 13+68.77

END BRIDGE
POT Sta. 16+71.23

END APPROACH SLAB
-L- POT STA 16+82.07

PCSta. 18+31.36

END TIP PROJEC
POCSta. 21+25.00
END 4" P.S.

-BL-103
24+92.35 PINC
-L- 22+15.42
46.82 LT.

-BL-102 19+61.91 PINC
-L- 16+92.91
15.55' LT.

+31.36
50'
LT.& RT.

+25.00
50'
LT.& RT.

+00
50'
LT. & RT.

16+59.97
50'

+62.83
75'

+60
165'

+10
50'

N 41° 58' 35.7" W

N 41° 58' 35.7" W

S 41° 58' 35.7" E

S 41° 58' 35.7" E

TOWN CREEK

TOWN CREEK

TOWN CREEK

TOWN CREEK

MARSH

WOODS

BELL SOUTH

AT&T

NC 133
23' BST

NC 133
25' BST

2½' CONC.

TO SOUTHPORT

TO BELVILLE

(UNDER CREEK)

SEAT ELEV. = 7.18'

SEAT ELEV. = 7.21'

BRIDGE = 61

ABAND CONC BRIDGE SEAT

TYPE III

TYPE B

REM EX GR

CL B RIPRAP
EST. ITONS
EST. 5 SY FF

BEGIN SBG
@ 10+10

END SBG
@ 13+61.22

END SBG
@ 13+48.96

END SBG
@ 16+72.78

END SBG
@ 17+72.55

CLASS B RIP RAP
TO ELEV. 9.0'
(STRUCTURES ITEM)

+70.26
60.39'

+13.05
80.06'

S 87° 44' 09" W
37.74'

N 80° 37' 25" W
11.28'

S 81° 21' 49" W
28.06'

S 17° 17' 37" E
102.24'

S 8° 24' 19" E
32.94'

S 4° 27' 19" E
49.91'

S 54° 20' 09" W
185.46'

S 36° 14' 30" E
501.26'

S 82° 38' 19" W
240.00'

N 81° 46' 47" E
165.19'

N 73° 43' 47" E
167.16'

N 8° 24' 04" W
131.00'

N 58° 51' 19" W
262.67'

N 58° 51' 19" W
182.00'

N 58° 51' 19" W
85.22'

N 58° 51' 19" W
144.37'

S 31° 08' 41" W
350.00'

60' R/W ROAD EASEMENT

DAVID R. HARLESS
DB 1267 PG 158
MB Z PG 265

DAVID R. HARLESS
DB 1152 PG 193
MB 19 PG 314
MB Z PG 265

J. CLARK HIPP
DB-1287 PG 137
WILLIAM C. WARWICK, III
DB 1074 PG 845

WILLIAM C. WARWICK, III
DB 1074 PG 845
MB Z PG 179

T. F. HOLDINGS LIMITED PARTNERSHIP
DB 987 PG 849

TOWN CREEK TIMBER COMPANY
DB 248 PG 788
DB 475 PG 474

CHARLES G. SCAFF, III
DB 1334 PG 181
MB Z PG 179

HISTORICAL SIGN TO BE REMOVED AND RESET

GREASE TRAP

SEPTIC BLK WELL (ABAND)

ISBLK

48" ATL GATE

24" POST & CABLE

SPECIAL LATERAL BASE DITCH
SEE DETAIL "B"
CL B RIPRAP
EST. 40 TON
EST. 90 SY FF
DDE = 160 CY

SPECIAL CUT DITCH
SEE DETAIL "C"

ROCK SILL CHECK DAM
TYPE B SEE STD. 1633.02

SCATTERED PALMS

EXISTING R/W

PER CHRIS BAKER'S CONVERSATION WITH MRS. DAVID HARLESS CONCERNING HIGH WATER LINE EVIDENCE. SHE STATED THAT THE WATER ROSE TO AN ELEVATION OF 2 TO 3 INCHES BELOW THE SURFACE OF THIS BRIDGE DURING HURRICANE FLOYD OF SEPT. 1999, YIELDING AN APPROXIMATE HIGH WATER LINE ELEVATION OF 10.6 FEET.

NOTE: SEE SHEET 5 FOR -L- PROFILE

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AM 8013485

5/28/99

PROJECT REFERENCE NO.	SHEET NO.
B-3115	5
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

STRUCTURE HYDRAULIC DATA

DESIGN DISCHARGE	= 5900	CFS
DESIGN FREQUENCY	= 50	YRS
DESIGN HW ELEVATION	= 8.01	FT
BASE DISCHARGE	= 7100	CFS
BASE FREQUENCY	= 100	YRS
BASE HW ELEVATION	= 8.66	FT
OVERTOPPING DISCHARGE	= 9305	CFS
OVERTOPPING FREQUENCY	= 100+	YRS
OVERTOPPING ELEVATION	= 9.0	FT

BM #1 N 142,617 E 2306.211
-BL- STA 22+00 68.3' RT.
R/R SPIKE SET IN TWIN 18" PINE TREE
EL = 10.263'
-L- STA 19+32.64 OFF 57.2155' RT.

LEFT DITCH
RIGHT DITCH

BEGIN GRADE
-L- STA 9+00
EL = 10.07'

PI = 11+90.00
EL = 10.65'
VC = 40'
K = 157

BEGIN BRIDGE
-L- STA 13+56.77

PI = 15+20.00
EL = 12.15'
VC = 260'
K = 285

END BRIDGE
-L- STA 16+71.23

PI = 17+50.00
EL = 11.10'
VC = 100'
K = 181

PI = 18+90.00
EL = 11.33'
VC = 125'
K = 153

PI = 20+50.00
EL = 12.90'
VC = 70'
K = 244

END GRADE
-L- STA 21+25
EL = 13.42'

(+)0.45%
(+)0.45%
(+)0.45%
(+)0.45%
(+)1.50%
(+)5.80%
(+)0.98%
(+)0.98%
(+)0.69%
(+)0.53%

HIGH TIDE ELEV.
LOW TIDE ELEV.

BEGIN LATERAL BASE DITCH
-L- STA 16+80
EL = 2.56

PI = 17+00.00
EL = 2.30

END LAT. BASE DITCH
BEGIN SPECIAL CAT. BASE DITCH
-L- STA 17+30.00 EL = 1.52

END SPECIAL CAT. BASE DITCH
-L- STA 17+50.00 EL = 1.00

BEGIN SPECIAL CUT DITCH
-L- STA 19+00.00 EL = 9.36

END SPECIAL CUT DITCH
-L- STA 20+50.00 EL = 10.90

ESTIMATED NORMAL WATER
SURFACE ELEVATION (HIGH TIDE) = 1.09 FT.
(LOW TIDE) = 0.89 FT.
DATE OF SURVEY = 11/19-21/01
W.S. ELEVATION AT DATE OF SURVEY = 10.26 FT.

NOTE: SEE SHEET 4 FOR -L- PLAN VIEW

20
10
0
-10
-20
-30
9
10
11
12
13
14
15
16
17
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20
21

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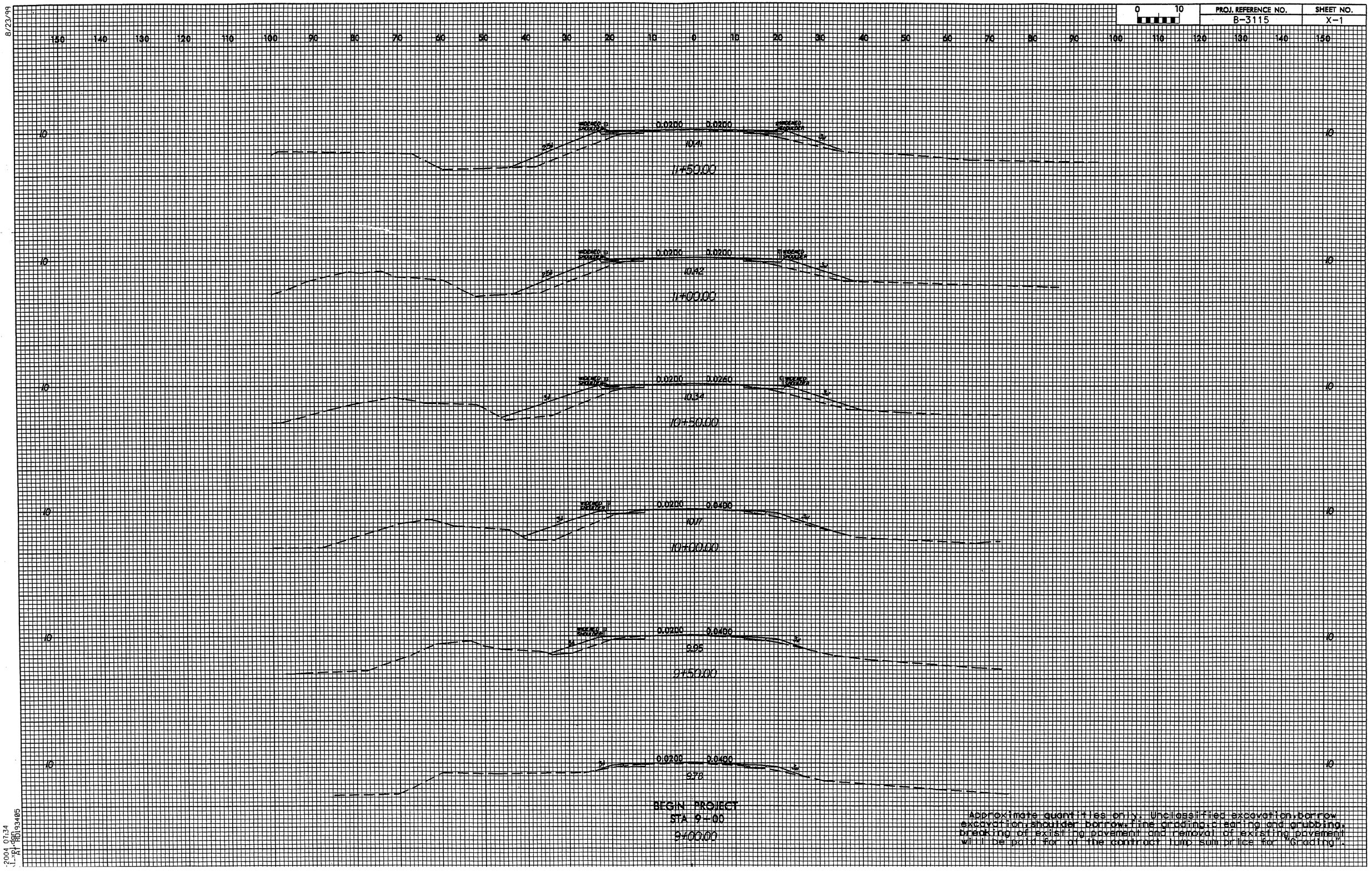

Approximate quantities only. Unclassified excavation, borrow excavation, shoulder borrow, fine grading, clearing and grubbing, breaking of existing pavement and removal of existing pavement will be paid for at the contract lump sum price for "Grading".

8/23/99

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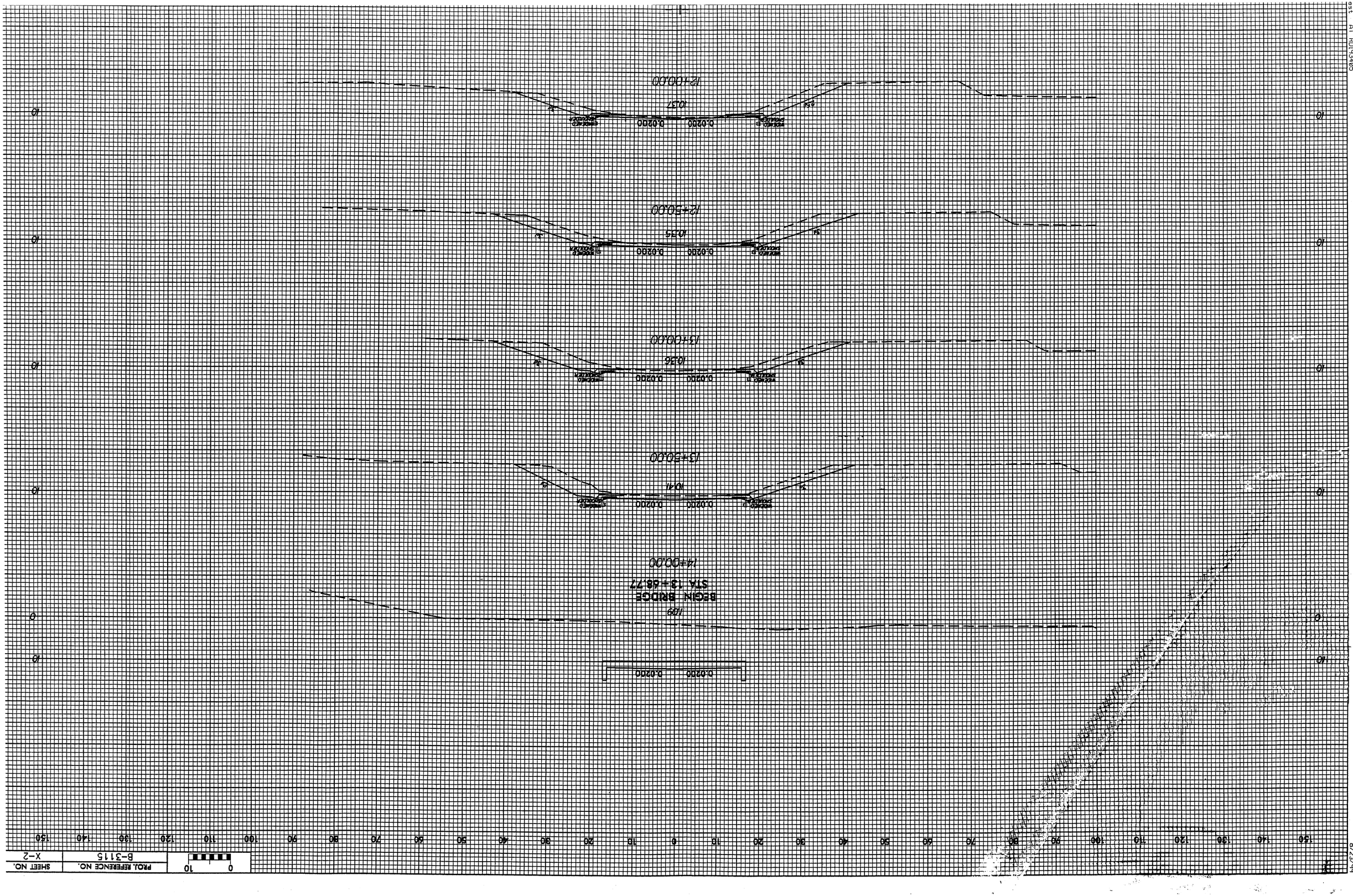
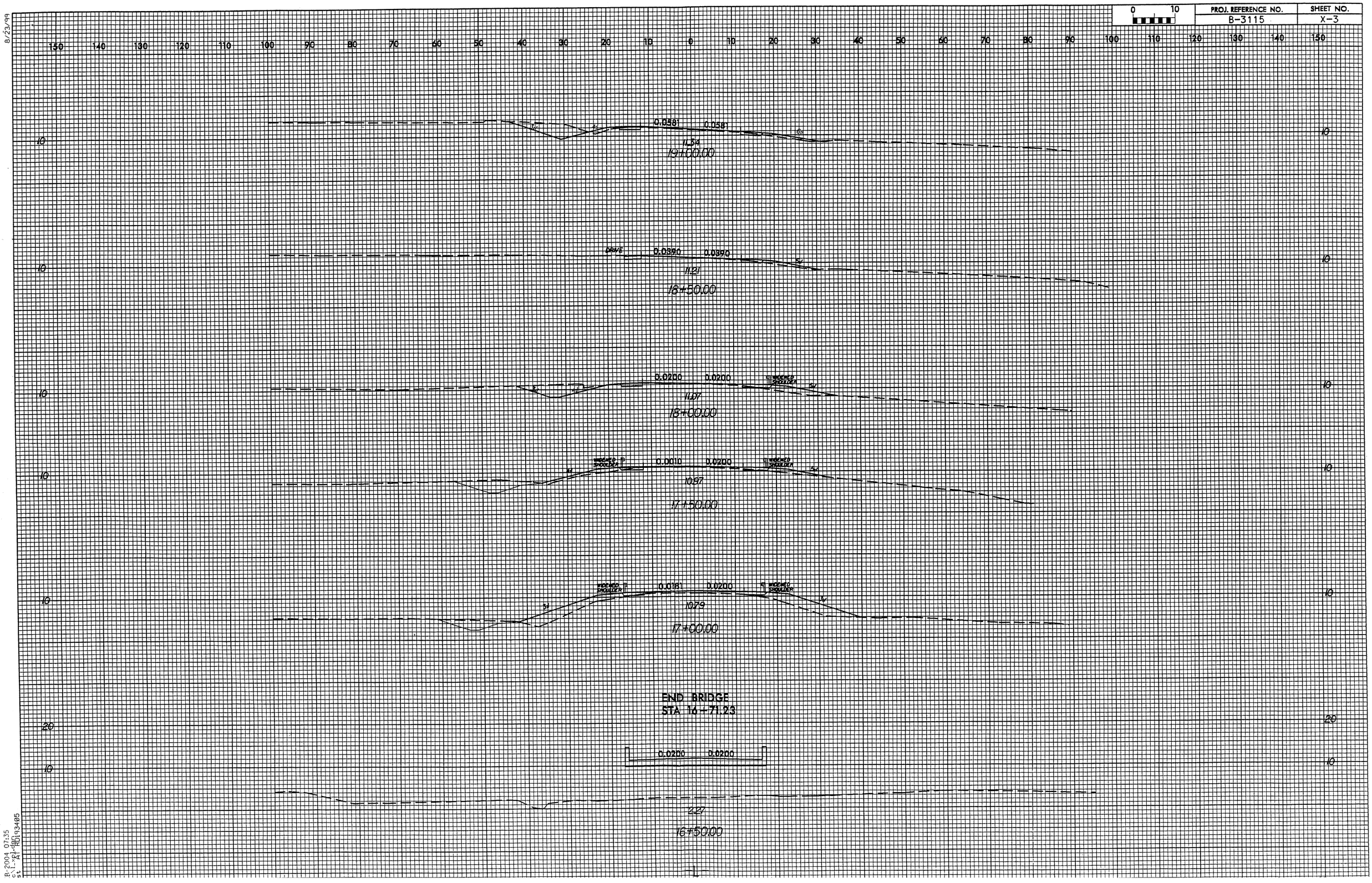
AT RD193405



PROJ. REFERENCE NO.	SHEET NO.
B-3115	X-2

8/23/94

0 10	PROJ. REFERENCE NO.	SHEET NO.
	B-3115	X-3



19+50.00

1172

0.0771

20+00.00

1217

0.0800

20+50.00

1264

0.0900

21+00.00

1315

0.1000

0.1056

END PROJECT
STA 21+25

21+50.00

1376

PROJ. REFERENCE NO.	SHEET NO.
B-3115	X-4

0 10

8/23/96

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