



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

August 2, 2005

MEMORANDUM TO: Mr. D. R. Conner, P.E.
Division One Engineer

FROM: Philip S. Harris, III, P.E. 
Natural Environment Unit Head
Project Development and
Environmental Analysis Branch

SUBJECT: Pasquotank County, Replace Bridge No. 24 over Halls Creek on
SR 1140; T.I.P. Number B-4222; Federal Aid Project BRZ-
1140(2); State Project 8.2110401

Attached is the U. S. Army Corps of Engineers 404 Nationwide Permit Number 23 and 33, and the CAMA permit from Division Coastal Management for the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

cc: Mr. Art McMillan, P.E.
Mr. Jay Bennett, P.E.
Mr. David Chang, P.E.
Mr. Randy Garris, P.E.
Mr. Greg Perfetti, P.E.
Mr. Mark Staley
Mr. Omar Sultan
Mr. John F. Sullivan, FHWA
Mr. Clay Willis, Division 1 DEO

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

Replacement of Bridge No. 24
On SR 1140 over Halls Creek
Federal-Aid No. BRZ-1140(2)
State Project No. 8.2110401
T.I.P. No. B-4222
Pasquotank County

This greensheet has been revised for amendments made from the original permit conditions from Division of Coastal Management. New / revised conditions are in bold, removed conditions have been struck-through.

In addition to the standard Nationwide Permit 23 & 33 Conditions, the General Nationwide Permit Conditions, Section 404 Only Conditions, Regional Conditions, State Consistency Conditions, NCDOT's Guidelines for Best Management Practices for the Protection of Surface Waters, Design Standards for Sensitive Watersheds, NCDOT's Guidelines for Best Management Practices for Bridge Demolition and Removal, General Certifications Conditions, and Section 401 Conditions of Certification, the following special commitments have been agreed to by NCDOT:

Conditions Developed through Planning:

The NCDOT will schedule construction so that road closure begins in December 1 (after the fall harvest season). Work will be scheduled such that the road can be reopened on later than the following September.

The US Geological Survey (USGS) geodetic survey marker located on the northeast end of the existing bridge will be relocated prior to the removal of the existing bridge.

No in-water work shall be conducted from February 15th to June 30th of any year. In water work is defined as those areas that are inundated at any time during construction, including the waters or contiguous inundated wetlands of Halls Creek.

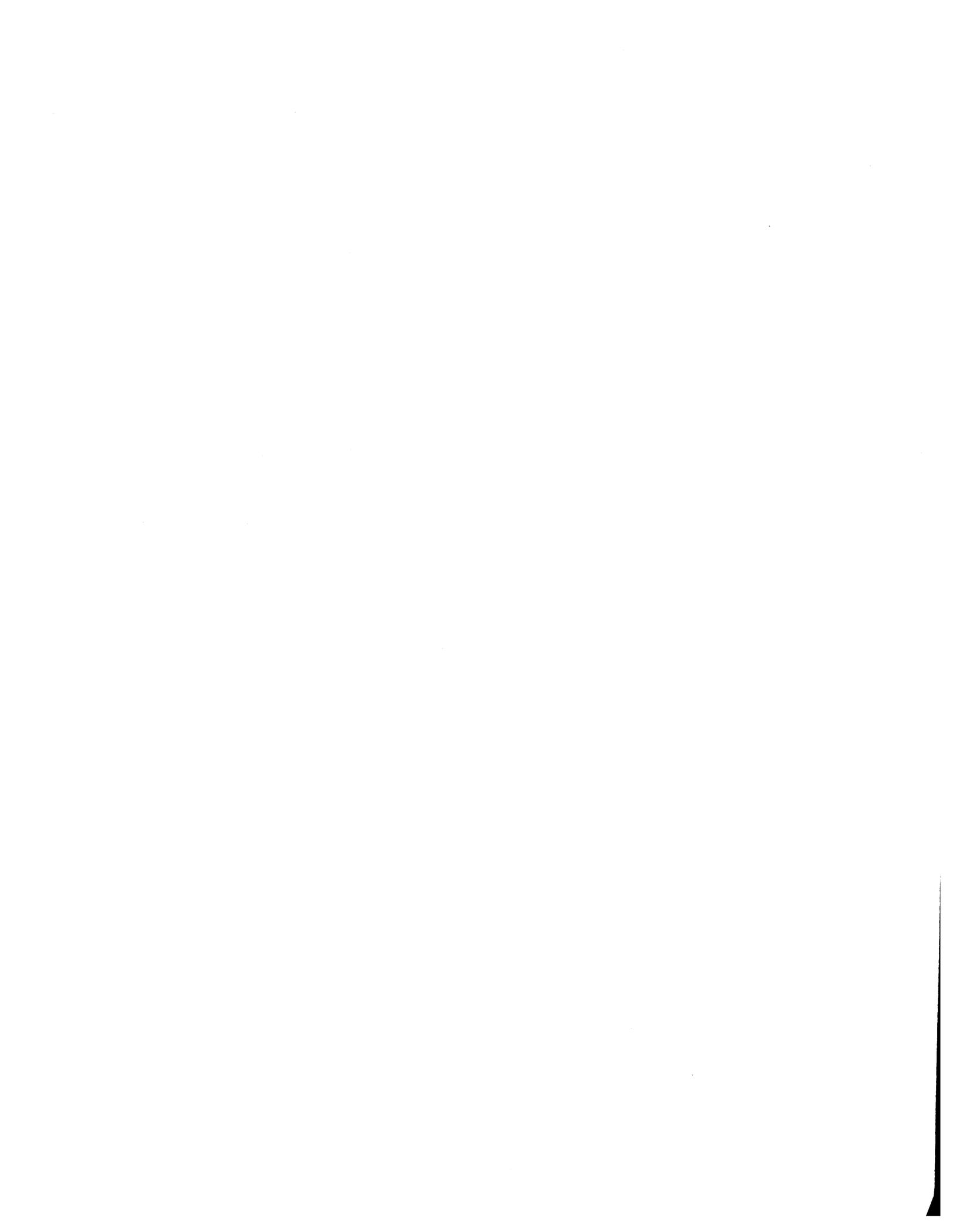
Division Construction Unit:

In accordance with environmental commitments made within the Categorical Exclusion document dated 2/28/03, the permittee shall implement the N.C. Department of Transportation's (NCDOT's) Stream Crossing Guidelines for Anadromous Fish Passage. Furthermore, any additional mitigative measures or environmental commitments specifically made by the applicant in the CAMA permit application and the Categorical Exclusion document shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this permit.

All excavated materials shall be confined above normal water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.

The temporary placement or double handling of any excavated or fill material within waters or vegetated wetlands is not authorized. This condition also applies to the removal of the existing bridge, bulkhead, roadway asphalt and associated materials.

If the existing bulkhead is replaced, then the new bulkhead shall be installed along the same alignment as the existing bulkhead, and prior notification of the bulkhead replacement shall be given to the N.C. Division of Coastal Management.



If the existing bulkhead is replaced, then it shall be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by the N.C. Division of Coastal Management. The bulkhead shall be structurally tight so as to prevent seepage of fill materials through the structure.

A temporary cofferdam (approximately 7' x 40') shall be used to construct the center bent for the new bridge. Temporary dewatering may occur. The cofferdam shall be removed only after, and as soon as possible after, the concrete is fully cured.

Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body only if prior approval is received from the N.C. Division of Coastal Management.

~~The new roadside ditches shall be completed and stabilized before the existing roadside ditches are filled. Vegetation used for bank stabilization shall be limited to native species representative of the immediately surrounding undisturbed similar habitat, and shall include establishment of a 50-foot wide vegetated buffer on both sides of the new roadside ditches to the maximum extent practical.~~

Adequate measures shall be taken to prevent short-term and long-term erosion of the side slopes of the ditch(es).

Excavation of the new ditch(es) as depicted on the attached workplan drawing(s) shall not exceed a depth of 2 feet and a width of 7 feet.

~~The fill material to be placed within existing ditches that occur through wetlands adjacent to SR 1140 shall consist of suitable wetland or organic substrate compatible with the immediately surrounding undisturbed, similar wetlands. The resulting elevation and contour of the fill material placed within existing ditches shall match that of the adjacent wetlands upon project completion.~~

~~The wetland substrate that is excavated to create new ditches within wetlands shall be used to fill the existing ditches that are located within wetlands.~~

Turbidity curtains and silt fences shall be used to isolate all work areas from Halls Creek, including pile or casement installation, placement of riprap, excavation and filling. The turbidity curtains shall be installed parallel to the banks on each side of the stream. The turbidity curtains shall extend past the construction limits and be attached to the silt fences containing the work site. The turbidity curtains shall not fully encircle the work area or extend across Halls Creek. The turbidity curtains shall be properly maintained and 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. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.

This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and the N.C. Department of Transportation's (NCDOT's) Memorandum of Agreement with the Division of Land Resources.

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

No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.

The authorized activity shall not cause an unacceptable interference with navigation.

Permit Class
AMENDED

Permit Number
108-05

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

Permit

for

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

Excavation and/or filling pursuant to NCGS 113-229

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

Authorizing development in Pasquotank County at Halls Creek, Bridge No. 24 on SR 1140, Nixonton, as requested in the permittee's application dated 3/2/05 (MP-1) and 4/8/05 (MP-5), including the attached workplan drawings (4), dated as received on 5/6/05

This permit, issued on 7/28/05, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

TIP No. B-4222, Bridge Replacement

- 1) In order to protect anadromous fish in Halls Creek, no in-water work shall be conducted between February 15th and June 30th of any year without prior approval of the N.C. Division of Coastal Management, in consultation with the N.C. Wildlife Resources Commission and the U.S. Army Corps of Engineers. For the purposes of this moratorium, in-water is defined as those areas that are inundated at any time during construction, including the waters or contiguous inundated wetlands of Halls Creek.

(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

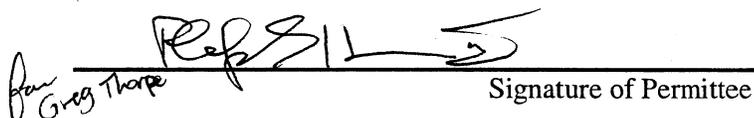
In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

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

- 2) In accordance with environmental commitments made within the Categorical Exclusion document dated 2/28/03, the permittee shall implement the N.C. Department of Transportation's (NCDOT's) Stream Crossing Guidelines for Anadromous Fish Passage. Furthermore, any additional mitigative measures or environmental commitments specifically made by the applicant in the CAMA permit application and the Categorical Exclusion document shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this permit.
- 3) Fill slopes in wetlands shall be 3:1 or steeper.
- 4) All excavated materials shall be confined above normal water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 5) The temporary placement or double handling of any excavated or fill material within waters or vegetated wetlands is not authorized. This condition also applies to the removal of the existing bridge, bulkhead, roadway asphalt and associated materials.
- 6) No excavation shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawing(s).
- 7) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill areas as indicated on the workplan drawing(s).
- 8) All fill material shall be clean and free of any pollutants except in trace quantities.
- 9) Live concrete shall not be allowed to contact the water in or entering into Halls Creek. Water inside coffer dams or casings that has been in contact with wet concrete shall only be returned to the wetlands and waters of Halls Creek when it no longer poses a threat to aquatic organisms.
- 10) All fill material shall be obtained from an upland source.
- 11) Material excavated may be used in fill areas associated with the project or shall be removed from the site and taken to an approved high ground location.
- 12) Construction staging areas shall be located only in uplands and not in wetlands or waters of the State.
- 13) There shall be no clearing of wetlands outside of the area indicated on the workplan drawing(s) without prior approval from the N.C. Division of Coastal Management.
- 14) The placement of riprap shall be limited to the areas as depicted on the attached workplan drawing(s). The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities. It shall be of a size sufficient to prevent its movement from the site by wave or current action. The riprap material shall consist of clean rock or masonry materials such as, but not limited to, granite, marl or broken concrete.

ADDITIONAL CONDITIONS

- 15) If the existing bulkhead is replaced, then the new bulkhead shall be installed along the same alignment as the existing bulkhead, and prior notification of the bulkhead replacement shall be given to the N.C. Division of Coastal Management.
- 16) If the existing bulkhead is replaced, then it shall be solid and constructed of treated wood, concrete slabs, metal sheet piles or other suitable materials approved by the N.C. Division of Coastal Management. The bulkhead shall be structurally tight so as to prevent seepage of fill materials through the structure.
- 17) A temporary cofferdam (approximately 7' x 40') shall be used to construct the center bent for the new bridge. Temporary dewatering may occur. The cofferdam shall be removed only after, and as soon as possible after, the concrete is fully cured.
- 18) The bridge shall be constructed using top down construction methodologies. All construction access shall be through the existing bridge and adjacent upland areas. Use of mats for construction access across wetlands is not authorized. Dredging in any manner, including "kicking" with boat propellers is not authorized.
- 19) The N.C. Department of Transportation's (NCDOT's) document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during both demolition and construction activities.
- 20) Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body only if prior approval is received from the N.C. Division of Coastal Management.
- 21) The pile installation practice shall be conducted with a vibratory hammer. Any other type of pile installation, such as jetting or drilled shaft construction, shall require additional review and authorization from the N.C. Division of Coastal Management.
- 22) Debris from the existing bridge, including deck components, bulkhead, roadway asphalt and associated materials, shall not enter wetlands or waters of the State, even temporarily.
- 23) All materials and debris associated with the removal and/or construction of the existing and/or new bridge, bulkhead, roadway asphalt and associated materials shall be disposed of on an approved upland site.

Utility Impacts

- 24) The telephone, electric and water utilities shall be relocated using a horizontal directional bore drilling method. Entry and exit points of this activity, including disposal of material from the drilling activity, shall be outside of all wetlands and waters of the State.
- 25) The telephone, electric and water utility relocations shall not result in any permanent or temporary impacts to wetlands or waters of the State with the exception of a small amount of wetland vegetation cut or compressed. Cuts through wetlands shall be minimized.

ADDITIONAL CONDITIONS

- 26) Any relocation of utility lines that is not already depicted on the attached workplan drawing(s), or described within the attached permit application, shall require approval from the N.C. Division of Coastal Management, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 27) Subaqueous lines shall be placed a minimum of two feet below the bottom contour. There shall be no resultant change in preconstruction bottom contours.

Ditches

- 28) Adequate measures shall be taken to prevent short-term and long-term erosion of the side slopes of the ditch(es).
- 29) Excavation of the new ditch(es) as depicted on the attached workplan drawing(s) shall not exceed a depth of 2 feet and a width of 7 feet.

Mitigation

- 30) In accordance with the special conditions of the U.S. Army Corps of Engineers Nationwide Permits issued for this project on 5/9/05, compensatory mitigation for the unavoidable impacts to 0.036 acres of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated October 26, 2004, from William D. Gilmore, EEP Transition Manager. The EEP will provide 0.36 acres of preservation of riverine wetlands in the Northern Outer Coastal Plain Eco-Region at the Cashie Site in Bertie County that has been acquired and protected by the EEP. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide a minimum of 1:1 acres of restoration of riverine wetlands in the Pasquotank River basin (Hydrologic Cataloging Unit 03010205) by July 22, 2005 and half of the proposed preservation mitigation would be available at that time for mitigation for other project impacts. 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.

Sedimentation and Erosion Control

- 31) Turbidity curtains and silt fences shall be used to isolate all work areas from Halls Creek, including pile or casement installation, placement of riprap, excavation and filling. The turbidity curtains shall be installed parallel to the banks on each side of the stream. The turbidity curtains shall extend past the construction limits and be attached to the silt fences containing the work site. The turbidity curtains shall not fully encircle the work area or extend across Halls Creek. The turbidity curtains shall be properly maintained and 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. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.
- 32) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and the N.C. Department of Transportation's (NCDOT's) Memorandum of Agreement with the Division of Land Resources.

ADDITIONAL CONDITIONS

- 33) The permittee shall follow "Best Management Practices for the Protection of Surface Waters" and shall also implement sedimentation and erosion control measures sufficient to protect aquatic resources.
- 34) This project shall comply with the Design Standards in Sensitive Watersheds, 15A NCAC 4B .0124.
- 35) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

General

- 36) No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
- 37) The authorized activity shall not cause an unacceptable interference with navigation.
- 38) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent waters.
- 39) If it is determined that additional permanent and/or temporary impacts (such as but not limited to temporary access roads, detours, or matting to transport equipment across wetlands) are necessary that are not shown on the attached workplan drawing(s), additional authorization from N.C. Division of Coastal Management (DCM) shall be required.
- 40) Any changes in the approved plan may require additional authorization from the N.C. Division of Coastal Management (DCM). The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination.
- 41) Development authorized by this permit shall only be conducted within N.C. Department of Transportation Right-of-Ways and easements.
- 42) The N.C. Division of Water Quality (DWQ) authorized the proposed project on 3/9/05 (DWQ Project No. 05-0423) under a General Water Quality Certification. Any violation of the Certification approved by DWQ shall be considered a violation of this CAMA permit.
- 43) The N.C. Division of Water Quality (DWQ) approved this project under stormwater management rules of the Environmental Management Commission under Stormwater Permit No. SW7040406 on 4/22/04. Any violation of the permit approved by the DWQ shall 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 (COE Action ID No. 200510770) and Nationwide Permit Number 33 (COE Action ID No. 200510903), which were both issued on 5/9/05.

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



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

April 8, 2005

N. C. Dept. of Environment and Natural Resources
Division of Coastal Management
1367 U. S. Highway 17
Elizabeth City, NC 27909

ATTENTION: Ms. Lynn Mathis
NCDOT Coordinator

Dear Madam:

Subject: **Addressing of Deficiencies in CAMA Major Development Permit Application** for the Replacement of Bridge No. 24 over Halls Creek on SR 1140, Pasquotank County, Federal Aid Project No. BRZ-1140(2); State Project No. 8.2110401; TIP No. B-4222.

In the previous application dated March 1, 2005, NCDOT failed to describe and quantify how the jurisdictional surface water would be impacted on the eastern approach of the project, on the north side. This area, defined as shallow water bottom, will be filled in order to accommodate wider approach shoulders leading up to a wider bridge structure. This area is approximately 105 square feet in size. At normal water level, the ditch is submerged extending back approximately 24 feet. Where it intersects with Halls Creek, the ditch is 9 feet wide tapering to a width of one foot. No other changes are anticipated from the March 1, 2005 application.

Review/ Summary of Impacts to Waters of the United States

The majority of the area surrounding the current SR 1140 and bridge No. 24 is comprised of a residential community with wetlands adjacent to the project. Outlined below are the proposed land and water disturbing activities:

There will be 0.01 acres of fill in wetlands due to the proposed activity. This fill is a result of widening the approach shoulders to lead up to a wider bridge.

There will be 0.006 acres of wetland excavation necessary to create the new roadside ditches that are being pushed outward as a result of the wider approach shoulders.

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

TELEPHONE: 919-733-3141
FAX: 919-715-1501

WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

There will be 0.02 acres of mechanized clearing in wetlands to accommodate for construction activities, providing the unobstructed movement of heavy equipment.

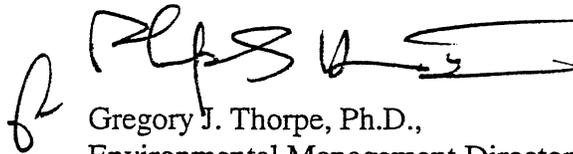
There is also 0.01 acres of temporary dewatering of Hall's Creek due to the need for a temporary cofferdam to construct the bent supporting the new structure.

There will be 105 square feet (0.0024 acre) of fill in shallow water bottom on the eastern approach, north side. This fill is a result of widening the approach shoulders to lead up to a wider structure.

An updated MP-5 form is also included in this package.

Please contact Michael Turchy at maturchy@dot.state.nc.us or 919 715-1468 for additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "G. J. Thorpe", with a large, stylized initial "G" on the left side.

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

Cc:

File



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

March 1, 2005

N. C. Dept. of Environment and Natural Resources
Division of Coastal Management
1367 U. S. Highway 17
Elizabeth City, NC 27909

RECEIVED
MAR 03 2005
COASTAL MANAGEMENT
DIVISION

ATTENTION: Ms. Lynn Mathis
NCDOT Coordinator

Dear Madam:

Subject: **CAMA Major Development Permit Application** for the Replacement of Bridge No. 24 over Halls Creek on SR 1140, Pasquotank County, Federal Aid Project No. BRZ-1140(2); State Project No. 8.2110401; TIP No. B-4222.

The project involves the removal and replacement of Bridge Number 24 carrying SR 1140 over Halls Creek in Pasquotank County. A new bridge approximately 104 feet long and clear width of 30 feet will be constructed to carry SR 1140 over the creek. SR 1140 will be detoured using SR 1141, SR 1144, SR 1139 and SR 1136 for a total detour length of 8.7 miles. The project is shown in the approved Categorical Exclusion and permit drawings.

Water Resources

The project is located within the 03010205 hydrologic unit of the Pasquotank River Basin. Halls Creek originates north of SR 1144 in Pasquotank County and flows south to its confluence with Little River southeast of the project area and has a best usage classification of C Sw.

Impacts to Waters of the United States

The majority of the area surrounding the current SR 1140 and bridge No. 24 is comprised of a residential community with wetlands adjacent to the project.

Outlined below are the proposed land and water disturbing activities:

There will be 0.01 acres of fill in wetlands due to the proposed activity. This fill is a result of widening the approach shoulders to lead up to a wider bridge.

There will be 0.006 acres of wetland excavation necessary to create the new roadside ditches that are being pushed outward as a result of the wider approach shoulders.

There will be 0.02 acres of mechanized clearing in wetlands to accommodate for construction activities, providing the unobstructed movement of heavy equipment.

There is also 0.01 acres of temporary dewatering of Hall's Creek due to the need for a temporary cofferdam to construct the bent supporting the new structure.

Land Disturbing Activities

Bridge No. 24, an 8 span structure, will be replaced with a bridge that only has two spans. In order to accommodate for the larger spans, a larger (taller) girder must be used, thus raising the grade of the bridge. There will be approximately 448 cubic yards of fill placed on high ground to raise the grade approaching the new structure.

Also, 51.9 cubic yards of high ground excavation is necessary to create the new roadside ditches that are being pushed outward as a result of the wider approach shoulders.

A timber bulkhead is located in the southwestern portion of the project area. If this bulkhead is in conflict with construction activities, it will be removed and then replaced once the project is complete. Only the portion of the bulkhead that is within the right of way and in conflict with construction activities will be removed, resulting in a maximum removal/replacement of 25'. It will be replaced at the existing location, parallel to Hall's Creek.

As the northwestern bank of Hall's Creek in close proximity to a building, 6 square yards of class 1 stone will be used to ensure proper stabilization.

No stabilization is necessary under the bridge, as the increased length of the bridge will allow for a lower gradient leading to the abutment of the bridge.

Utility Relocation Impacts

Three utilities exist within the project area. On the north, aerial power spans Hall's Creek and a water line is buried through Hall's Creek. On the south side of the project, Sprint telephone lines run underground until reaching Hall's Creek where they span aerially.

All of the utilities mentioned above will be directionally bored under Hall's Creek.

*WILL NOT NEED TO
MOVE H₂O LINES*

Bridge Demolition

Bridge Number 26 is composed of a reinforced concrete deck and railings on timber joists. The bridge has 8 spans and totals 68 feet in length. The original end and interior bents of the substructure were constructed of timber piles and caps and have been replaced with steel H-piles and steel caps. The original timber piles are still in place.

As stated in "NCDOT Best Management Practices for Construction and Maintenance Activities," because a CAMA permit is required, dropping of any component of a bridge into the water will not be permitted. All components from previous bridges must be removed.

The North Carolina Wildlife Resources Commission (NCWRC) requests a moratorium on in-water work between February 15 and June 15. Because a moratorium applies, this project falls under Case 2 (allowing no in-water work during moratorium periods) of the Best Management Practices for Bridge Demolition and Removal.

Avoidance and Minimization

The construction of this project has minimized the extent of the built-upon area by using the existing alignment for the widening. Traffic will be maintained using an off site detour. Best management practices (BMP's) will be utilized to minimize water quality impacts. No portion of the project is located in the critical area of the watershed. In compliance with 15A NCAC 02B.0104(m) we have incorporated the use of BMP's in the design of the project.

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 Ecosystem Enhancement Program (EEP), will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for NCDOT projects that are listed in Exhibit 1 of the subject MOA during the EEP transition period ending on June 30, 2005.

Since the subject project is listed in Exhibit 1, the necessary compensatory mitigation to offset unavoidable impacts to jurisdictional waters under the federal Clean Water Act will be provided by the EEP. The offsetting mitigation will derive from an inventory of assets already in existence within the same 8-digit cataloguing unit. The Department has avoided and minimized impacts to jurisdictional resources to the greatest extent possible as described above. The remaining, unavoidable impacts to 0.036 acre of jurisdictional will be offset by compensatory mitigation provided by the EEP program.

A letter dated October 26, 2004 from the EEP accepting this mitigation is attached to this application.

Federally Protected Species

Some populations of fauna and flora have been in, or are in, the process of decline either due to natural forces or their inability to co-exist with human activities. Federal law (under the provisions of the Endangered Species Act (ESA) of 1973, as amended) requires that any action likely to adversely affect a species classified as federally protected be subject to review by the United States Fish and Wildlife Service (USFWS). Other species may receive additional protection under separate state laws. Plants and animals with federal classifications of Endangered (E), Threatened (T), Proposed Endangered (PE) and Proposed Threatened (PT) are protected under provisions of ESA §§7 and 9, as amended.

As of January 29, 2003, the USFWS lists one federally protected species, the bald eagle (*Haliaeetus leucocephalus*) for Pasquotank County.

Surveys were conducted by NCDOT biologists in May of 2001 and February of 2004. No populations were identified. However, as habitat exists in the project area, the biological conclusion is May Affect, Not Likely to Adversely Affect.

The US Fish and Wildlife service concurred with this biological conclusion in the attached letter dated March 11, 2004.

Regulatory Approvals

The department has obtained a state stormwater management permit (Permit No. SW7040406) for this project. A copy of this permit is included with this application.

The department is also in receipt of an exemption of a United States Coast Guard permit, also included with this application.

The NCDOT hereby requests that this project be authorized by the issuance of a Coastal Area Management Act Major Development Permit. Please debit the appropriate CAMA Major Development Permit Fee to work order number 33174.1.1. Attached to this cover letter are the completed MP forms along with the appropriate permit drawings, and certified mail "green cards" from the adjacent riparian landowner notifications. The NCDOT has also requested authorization from the North Carolina Division of Water Quality and the U. S. Army Corps of Engineers under separate cover. If you have any questions, please contact Mr. Michael Turchy of my staff at maturchy@dot.state.nc.us or (919) 715-1468.

A copy of this permit application will be posted on the DOT website at:
<http://www.ncdot.org/planning/pe/naturalunit/Permit.html>.

Sincerely,


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

Cc:

W/attachment

Ms. Cathy Brittingham, NCDCM
Mr. Bill Biddlecome, USACE, Washington
Mr. John Hennessy, DWQ, Raleigh
Mr. Travis Wilson, NCWRC
Mr. Gary Jordan, USFWS
Mr. Ron Sechler, NMFS
Mr. Mike Street, NCDMF
Mr. David Chang, P.E., Hydraulics
Mr. Greg Perfetti, P.E., Structure Design
Mr. D. R. Conner, P.E., Division 1 Engineer
Mr. Clay Willis, Division 1 Environmental Officer
Ms. Beth Harmon, EEP

W/o attachment

Mr. Jay Bennett, P.E., Roadway Design
Mr. Omar Sultan, Programming and TIP
Mr. Art McMillan, P.E., Highway Design
Mr. Mark Staley, Roadside Environmental
Ms. Theresa Ellerby, PDEA Project Planning Engineer

APPLICATION

(To be completed by all applicants)

RECEIVED
MAR 03 2005
COASTAL MANAGEMENT
DIVISION

1. APPLICANT

a. Landowner:

Name N. C. Department of Transportation

Address 1548 Mail Service Center

City Raleigh State NC

Zip 27699-1548 Day Phone 919-733-3141

Fax 919-733-9794

b. Authorized Agent:

Name Phil Harris, PE

Address Same as above

City _____ State _____

Zip _____ Day Phone _____

Fax _____

c. Project name (if any) **B-4222 replacement of Bridge No.24 over Hall's Creek on SR 1140**

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

2. LOCATION OF PROPOSED PROJECT

a. County: Pasquotank

b. City, town, community or landmark
Nixonton

c. Street address or secondary road number
SR 1140

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

e. Name of body of water nearest project (e.g. river, creek, sound, bay) Hall's 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.

Remove existing bridge and construct new bridge in same location. An adjacent timber bulkhead may need to be replaced if it is in conflict with construction activities. If the bulkhead is removed, a new bulkhead will be replaced parallel to Halls Creek near the existing structure.

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

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

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. Proposed bridge will be constructed using a "top down" construction method The roadway approaches will be upgraded to current design standards

4. LAND AND WATER CHARACTERISTICS

- a. Size of entire tract N/A
- b. Size of individual lot(s) N/A
- c. Approximate elevation of tract above MHW or NWL 3'
- d. Soil type(s) and texture(s) of tract
Dorovan: Typic Medisaprists, Augusta: Aeric Ochraqults, Wahee: Aeric Ochraqults
- e. Vegetation on tract black gum, bald cypress, red maple, sweetgum, giant cane, blackberry, Japanese honeysuckle, maintained residential yards.
- f. Man-made features now on tract bridge, residences
- g. What is the CAMA Land Use Plan land classification of the site? (*Consult the local land use plan.*)
- | | |
|-----------------------|--------------------------|
| <u>X</u> Conservation | <u> </u> Transitional |
| <u> </u> Developed | <u> </u> Community |
| <u> </u> Rural | <u> </u> Other |
- h. How is the tract zoned by local government?
N/A
- 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? X Yes No
If yes, by whom? NCDOT
- 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) 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.
Private wells

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 See attached list
 Address _____
 Phone _____

Name _____
 Address _____
 Phone _____

Name _____
 Address _____
 Phone _____

- 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 \$400 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.

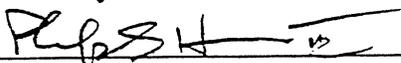
I certify that to the best of my knowledge, the proposed activity complies with the State of North Carolina's approved Coastal Management Program and will be conducted in a manner consistent with such program.

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 2 day of March, ~~2005~~ ²⁰⁰⁵.

Print Name Philip S. Hewitt III

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.

Project No. 8.2110401 (B-4222)

Property Owner List
For
Each Site

Parcel No.	Name	Address
①	Robert C. Collie	P.O. Box 1625 Elizabeth City, N.C. 27909
②	Nixonton Ruritan Club	694 Body Rd. Elizabeth City, N.C. 27909
③	Mary Pritchard	104 Marian Avenue Elizabeth City, N.C. 27909
④	N.C. Wildlife Commission	1720 Mail Service Center Raleigh, N.C. 27699-1720

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

PASQUOTANK COUNTY

PROJECT: 8.2110401 B-4222
PROPOSED REPLACEMENT OF
BRIDGE NO. 24 ON SR. 1140
OVER HALL'S CREEK

SHEET .

5 / 29 / 67

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 Private
- b. Type of bridge (construction material)
Concrete Cored Slab Bridge
- c. Water body to be crossed by bridge
Hall's Creek
- d. Water depth at the proposed crossing at MLW or
10.7
- e. Will proposed bridge replace an existing bridge?
 Yes No
If yes,
 - (1) Length of existing bridge 68'-0"
 - (2) Width of existing bridge 22' -0"
 - (3) Navigation clearance underneath existing bridge None (1.5')
 - (4) Will all, or a part of, the existing bridge be removed? (Explain)
All components of the existing bridge will be removed
- f. Will proposed bridge replace an existing culvert(s)?
 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) _____

- g. Length of proposed bridge 104'-0"
- h. Width of proposed bridge 30'-0"
- i. Height of proposed bridge above wetlands
2.7'
- j. Will the proposed bridge affect existing water flow?
 Yes No
If yes, explain _____
- k. Navigation clearance underneath proposed bridge
2.5 feet
- l. Will the proposed bridge affect navigation by reducing or increasing the existing navigable opening? Yes No
If yes, explain Navigation will be improved by a larger horizontal opening. The number of bents will be reduced from 7 to 1.
- m. Will the proposed bridge cross wetlands containing no navigable waters? Yes No
If yes, explain _____
- n. Have you contacted the U.S. Coast Guard concerning their approval?
 Yes 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:

_____ Coastal Wetlands _____ SAVs X Other Wetlands

If yes,

(1) Length of area to be excavated

 43'

(2) Width of area to be excavated

 7'

(3) Amount of material to be excavated in cubic yards 22.3 cubic yards- this is the roadside ditch located in the wetland.

c. Will the placement of the proposed bridge or culvert require any highground excavation?

 X Yes _____ No

If yes,

(1) Length of area to be excavated 100'

(2) Width of area to be excavated 7'

(3) Amount of material to be excavated in cubic yards 51.9 cubic yards- this is the roadside ditch located in the upland area.

d. If the placement of the bridge or culvert involves any excavation, please complete the following:

(1) Location of the spoil disposal area
 Unknown- contractor description

(2) Dimensions of spoil disposal area
 Unknown

(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 No

(5) Does the disposal area include any coastal wetlands (marsh), SAVs, or other wetlands? Yes No

If yes, give dimensions if different from (2) above. _____

(6) Does the disposal area include any area below the MHW or NWL? Yes 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 No

If yes,

(1) Length of area to be filled 40 feet

(2) Width of area to be filled 7 feet

(4) Purpose of fill temporary cofferdam to construct bent for new structure

e(2). 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 No

If yes,

(1) Length of area to be filled 24 feet

(2) Width of area to be filled 9 feet-tapering to 1-foot

Purpose of fill widen approach shoulders leading up to a wider bridge structure.

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 Other Wetlands If yes,

(1) Length of area to be filled 150'

(2) Width of area to be filled 4'

(3) Purpose of fill Widen shoulders to approach wider structure.

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? Yes No

If yes,

(1) Length of area to be filled ~550'

(2) Width of area to be filled ~22'

(3) Purpose of fill Fill used to raise the grade of the bridge.

4. GENERAL

a. Will the proposed project involve any mitigation? Yes No

If yes, explain in detail EEP will be providing compensatory mitigation for the 0.036 acres of wetland, see attached EEP acceptance letter.

b. Will the proposed project require the relocation of any existing utility lines? Yes No

If yes, explain in detail Power, Water, and Telephone lines will be moved. They all will be re-installed using directional boring resulting in no jurisdictional impacts.

c. Will the proposed project require the construction of any temporary detour structures? Yes No

If yes, explain in detail _____

d. Will the proposed project require any work channels? Yes No

If yes, complete Form DCM-MP-2

e. How will excavated or fill material be kept on site and erosion controlled? NCDOT High Quality Waters Erosion Control Methods will be used

f. What type of construction equipment will be used (for example, dragline, backhoe or hydraulic dredge)? Heavy highway construction equipment

g. Will wetlands be crossed in transporting equipment to project site? Yes No

If yes, explain steps that will be taken to lessen environmental impacts. _____

h. Will the placement of the proposed bridge or culvert require any shoreline stabilization? Yes No

If yes, explain in detail 6 square yards of Class 1 stone will be used for stabilization on the north west bank of Hall's Creek. An existing timber bulkhead is located on the south west quadrant of the project. If

this timber bulkhead is found to be in conflict with construction activities, this structure will be replaced in the approximate location, parallel to Hall's Creek.

NCDOT - TIP B-4222

Applicant or Project Name



Signature

4/8/05

Date



October 26, 2004

Mr. Bill Biddlecome
U. S. Army Corps of Engineers
Washington Regulatory Field Office
Post Office Box 1000
Washington, North Carolina 27889-1000

Dear Mr. Biddlecome:

Subject: EEP Mitigation Acceptance Letter:

B-4222, Bridge 24 over Hall's Creek, Pasquotank County
Cataloging Unit 03010205 (Pasquotank), Northern Outer Coastal Plain
Eco-Region

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) proposes to provide preservation to compensate for the unavoidable 0.036 acre of riverine wetland impacts of the subject project in the following manner:

Wetland Preservation (10:1) in same eco-region (0.36 acre)
Roanoke River – Cashie Site, Bertie County

The subject TIP 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. The compensatory mitigation for the project will be provided in accordance with Section IX, EEP Transition Period, of the Agreement.

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

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Gilmore".

William D. Gilmore, P.E.
Transition Manager

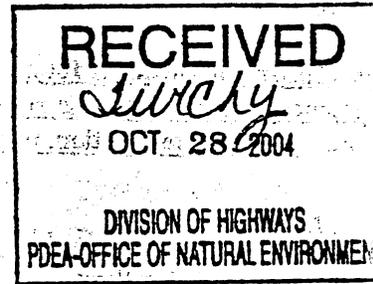
cc: Phil Harris, Office of Natural Environment, NCDOT
John Hennessy, Division of Water Quality, Wetlands/401 Unit
File: B-4222

Restoring... Enhancing... Protecting Our State





October 26, 2004



Mr. Gregory J. Thorpe, Ph.D.
Environmental Management Director
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

NOV 01 2005

Dear Dr. Thorpe:

Subject: EEP Mitigation Acceptance Letter:

B-4222, Bridge 24 over Hall's Creek, Pasquotank County

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide wetland mitigation for the subject project. Based on the information supplied by you in a letter dated October 22, 2004, the impacts are located in CU 03010205 of the Pasquotank River Basin in the Northern Outer Coastal Plain Eco-Region, and are as follows:

Riverine Wetland: 0.036 acre

As stated in your letter, 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. The wetland mitigation for the subject project will be provided in accordance with this agreement.

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

Sincerely,

William D. Gilmore, P.E.
Transition Manager

cc: Bill Biddlecome, USACE-Washington
John Hennessy, Division of Water Quality, Wetlands/401 Unit
File: B-4222

Restoring... Enhancing... Protecting Our State



U.S. Department of
Homeland Security

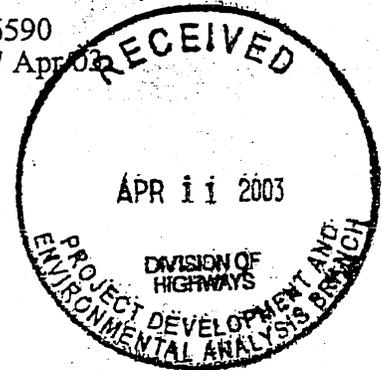
United States
Coast Guard



Commander
United States Coast Guard
Fifth Coast Guard District

431 Crawford Street
Portsmouth, Va. 23704-5004
Staff Symbol: Oan-b
Phone: (757) 398-6587
Fax: (757) 398-6334
Email: tknowles@lantd5.uscg.mil

16590
07 Apr 03



Mr. Gregory J. Thorpe
Environmental Management Director, PDEA
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

Dear Mr. Thorpe:

This is in response to your letter of March 14, 2003, to construct a bridge across Halls Creek, in Pasquotank County, North Carolina.

Since this stream at this site is subject to tidal influence, it is considered legally navigable for Bridge Administration purposes. This stream at the crossing site also meets the criteria for advanced approval waterways outlined in Title 33, Code of Federal Regulations, Section 115.70. Advance approval waterways are those that are navigable in law, but not actually navigated by other than small boats. The Commandant of the Coast Guard has given his advance approval to the construction of bridges across such waterways. Your letter and attachments confirmed such conditions exist at this site. Therefore, an individual permit will not be required for this project.

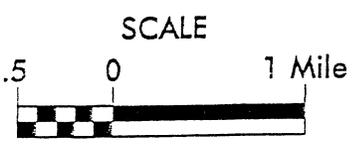
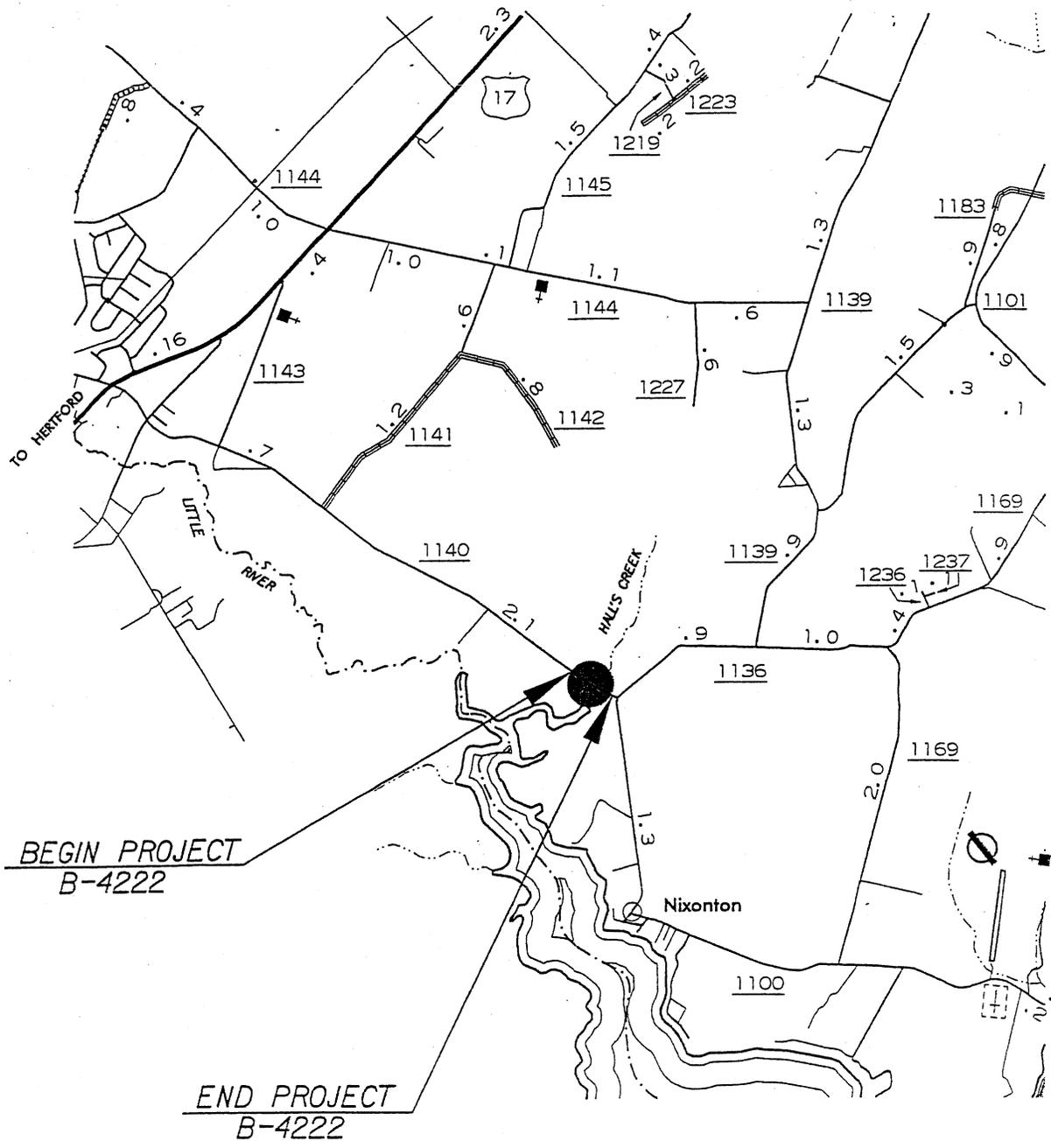
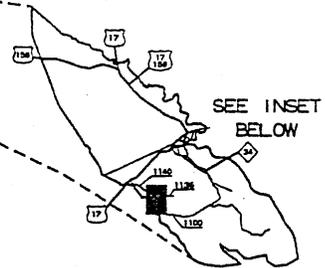
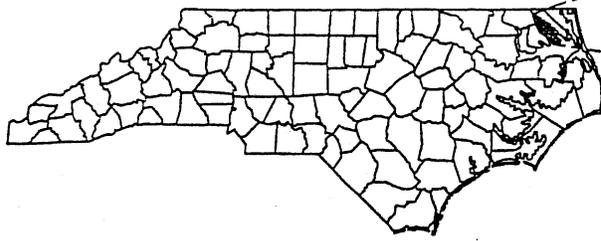
The fact that a Coast Guard permit is not required does not relieve you of the responsibility for compliance with the requirements of any other Federal, State, or local agency who may have jurisdiction over any aspect of the project.

If you have any questions regarding this matter, please contact Mr. Terrance Knowles, at the phone number or address shown above.

Sincerely,

A handwritten signature in cursive that reads "Waverly L. Gregory, Jr.".

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

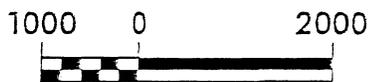
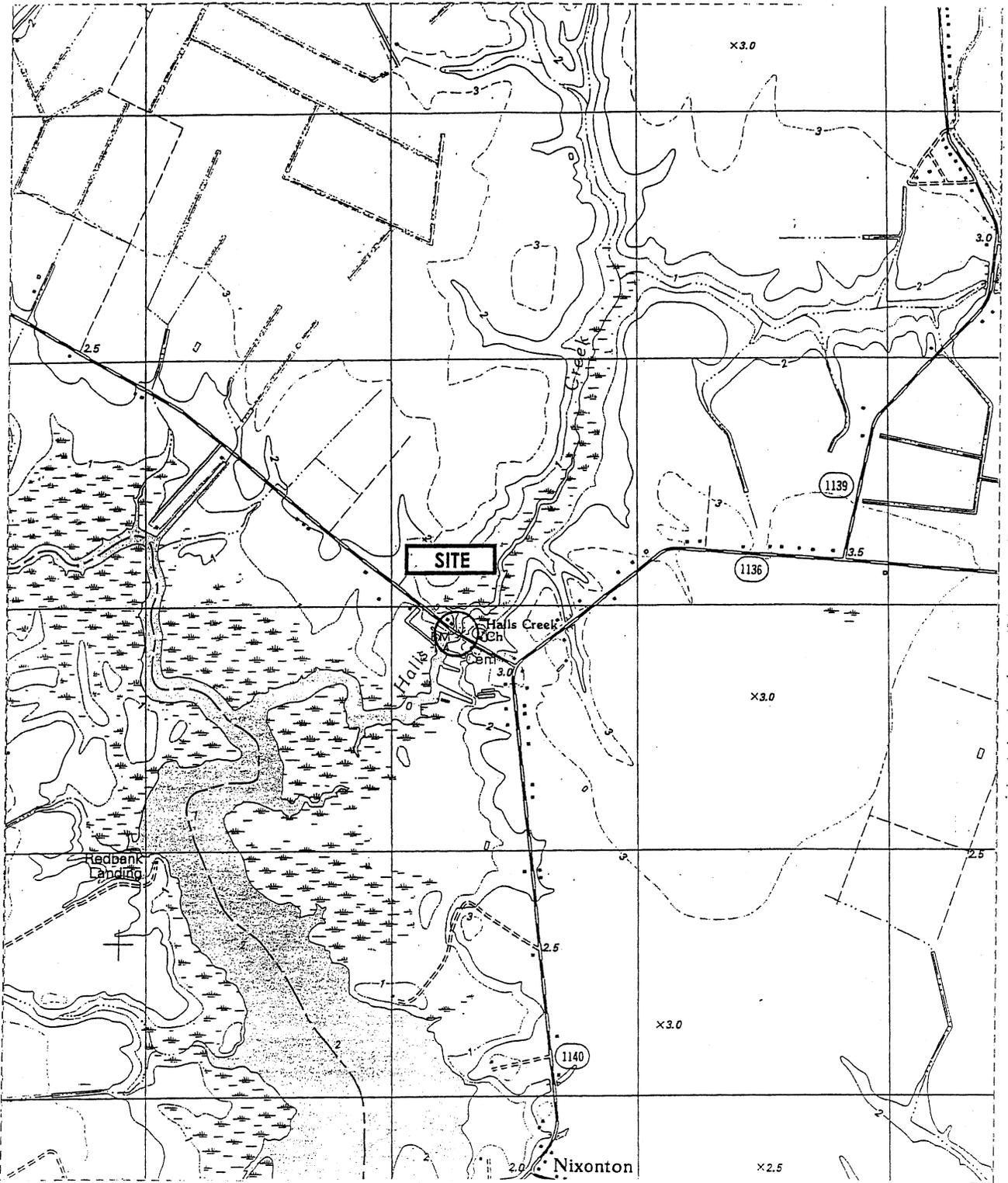


N.C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS

PASQUOTANK COUNTY

PROJECT: 8.2110401 (B-4222)
 PROPOSED REPLACEMENT OF
 BRIDGE No. 24 ON SR 1140
 OVER HALL'S CREEK

SHEET 1 OF 7 9/29/03



N.C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS

PASQUOTANK COUNTY

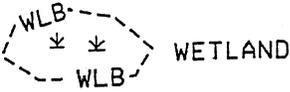
PROJECT: 8.2110401 (B-4222)
 PROPOSED REPLACEMENT OF
 BRIDGE No. 24 ON SR 1140
 OVER HALLS CREEK

SHEET 2 OF 7

9/29/05

LEGEND

---WLB--- WETLAND BOUNDARY



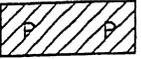
WETLAND



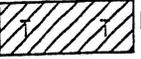
DENOTES FILL IN WETLAND



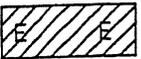
DENOTES FILL IN SURFACE WATER



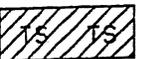
DENOTES FILL IN SURFACE WATER (POND)



DENOTES TEMPORARY FILL IN WETLAND



DENOTES EXCAVATION IN WETLAND



DENOTES TEMPORARY FILL IN SURFACE WATER



DENOTES MECHANIZED CLEARING

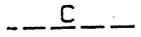
← ← FLOW DIRECTION



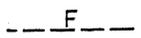
TOP OF BANK



EDGE OF WATER



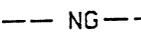
PROP. LIMIT OF CUT



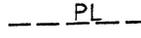
PROP. LIMIT OF FILL



PROP. RIGHT OF WAY



NATURAL GROUND



PROPERTY LINE



TEMP. DRAINAGE EASEMENT



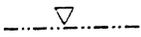
PERMANENT DRAINAGE EASEMENT



EXIST. ENDANGERED ANIMAL BOUNDARY



EXIST. ENDANGERED PLANT BOUNDARY



WATER SURFACE



LIVE STAKES



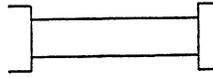
BOULDER



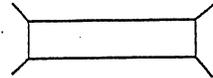
COIR FIBER ROLLS



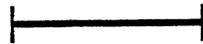
ADJACENT PROPERTY OWNER OR PARCEL NUMBER



PROPOSED BRIDGE



PROPOSED BOX CULVERT

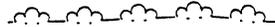


PROPOSED PIPE CULVERT

(DASHED LINES DENOTE EXISTING STRUCTURES)



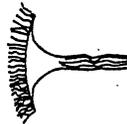
SINGLE TREE



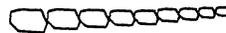
WOODS LINE



DRAINAGE INLET



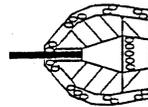
ROOTWAD



VANE



RIP RAP



RIP RAP ENERGY DISSIPATOR BASIN

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

PASQUOTANK COUNTY

PROJECT: 8.2110401 (B-4222)
PROPOSED REPLACEMENT OF
BRIDGE No. 24 ON SR 1140
OVER HALL'S CREEK

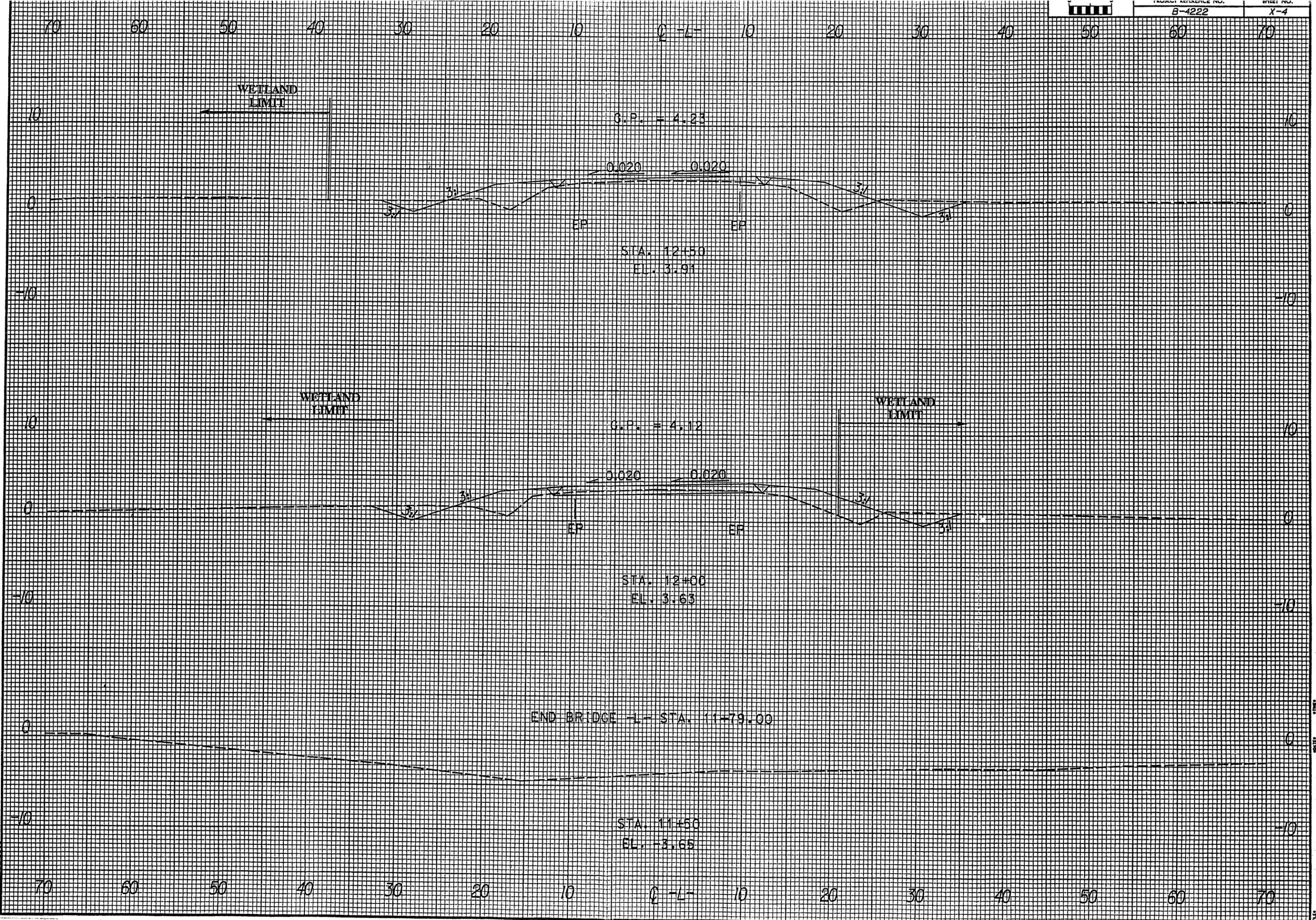
SHEET 3 OF 7

9/29/05

RECEIVED

MAY 06 2005

DIV. OF COASTAL MANAGEMENT
RALEIGH



SYSTEMS

RECEIVED
MAY 06 2005
DIV. OF COASTAL MANAGEMENT
RALEIGH

DATE PLOTTED: 05/06/05
TIME PLOTTED: 11:58 AM

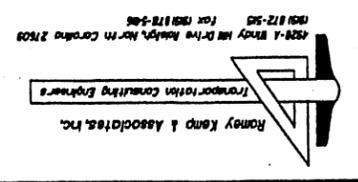
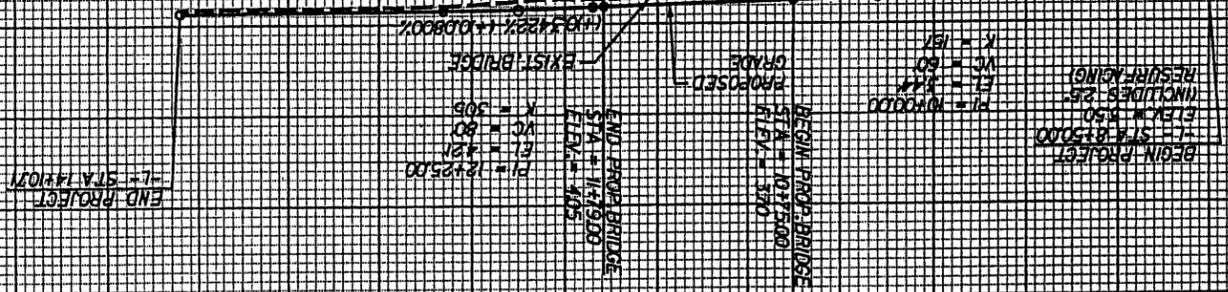
STRUCTURE HYDRAULIC DATA

DESIGN DISCHARGE	=	N/A
DESIGN FREQUENCY	=	25 YRS
DESIGN HW ELEVATION	=	N/A
BASE DISCHARGE	=	N/A
BASE FREQUENCY	=	100 YRS
BASE HW ELEVATION	=	5.9 FT
OVERTOPPING DISCHARGE	=	N/A
OVERTOPPING FREQUENCY	=	> 10 YR.
OVERTOPPING ELEVATION	=	2.6 FT

-7-
(FOR P.L.M. SEE SHEET NO. 4)

B.M. 10 ELEV. = 3.65
RR SPIKE IN BASE OF
POWER POLE
38.40 LT. OF -BL- STA. 23+46.50

B.M. 11 ELEV. = 3.34
RR SPIKE IN BASE OF
18' MAPLE
25.20 RT. OF -BL- STA. 28+73.10
37.48 RT. OF -L- STA. 12+95.00



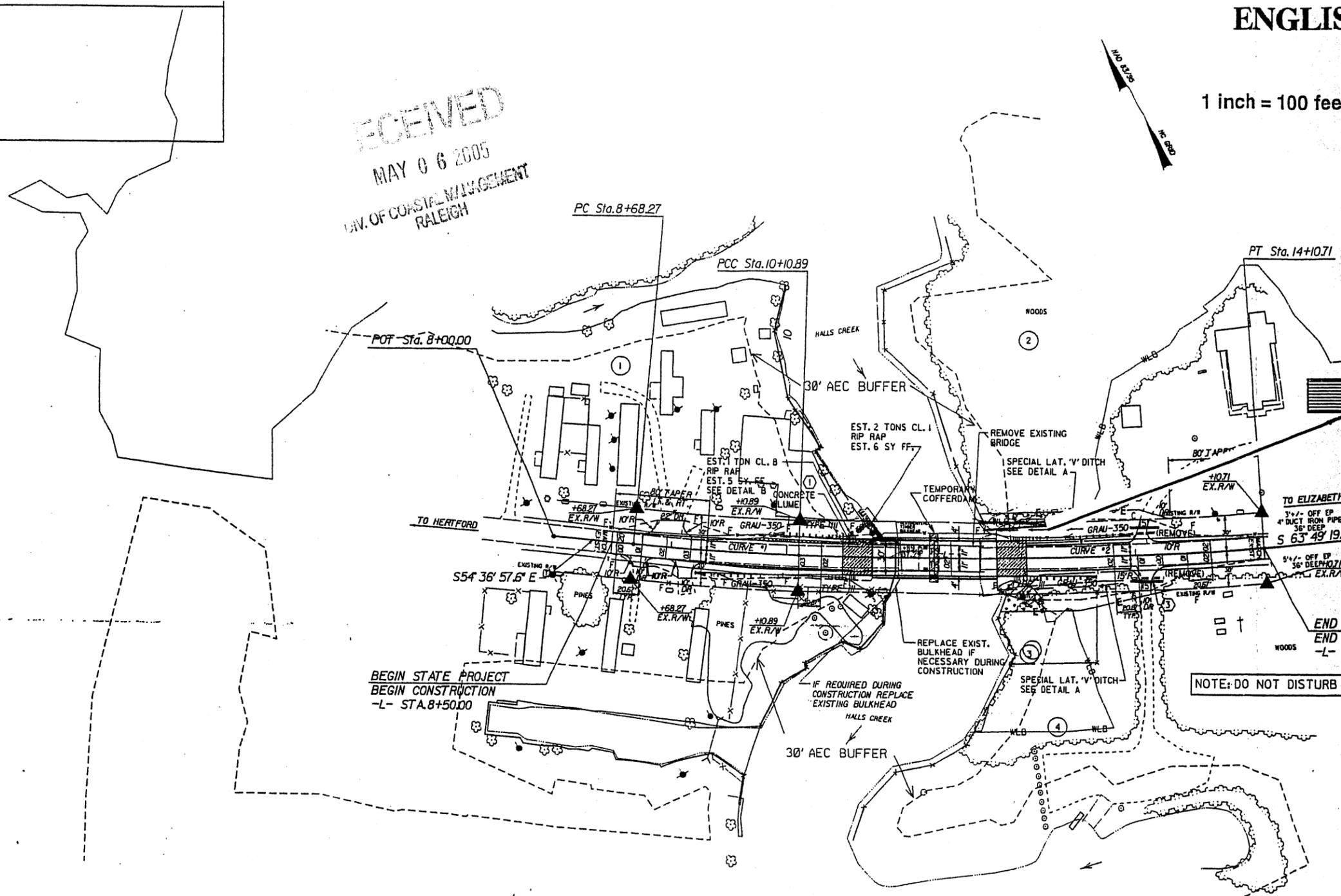
SA 017

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

PROJECT REFERENCE NO. B-4222
SHEET NO. 5
ROYALTY DESIGN ENGINEER
HYDRAULICS ENGINEER

1 inch = 100 feet

RECEIVED
MAY 06 2005
DIV. OF COASTAL MANAGEMENT
RALEIGH

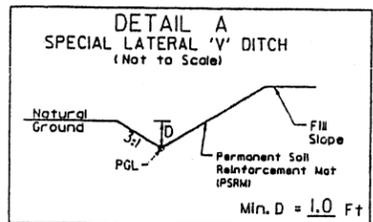
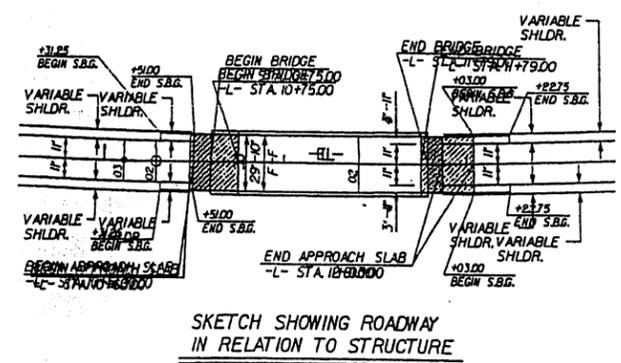


RECEIVED
MAR 31 2005
COASTAL MANAGEMENT
ELIZABETH CITY

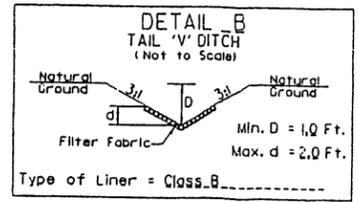
FOR -L- PROFILE SEE SHEET NO.5

SEE SHEETS S-1 THRU S-2 FOR STRUCTURE PLANS

Ramey Kemp & Associates, Inc.
Transportation Consulting Engineers
1528-A Windy Hill Drive Raleigh, North Carolina 27609
1991 812-545 Fax 1991 818-546



-L- STA 11+75 TO STA 13+50 LT.
-L- STA 11+85 TO STA 13+50 RT.



-L- STA. 10+56 LT.

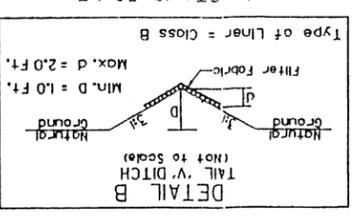
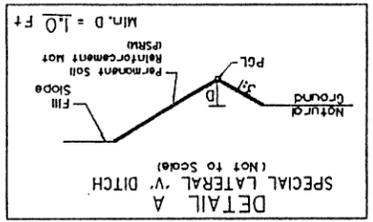
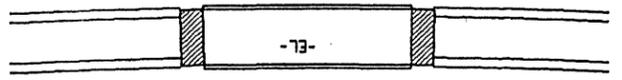
-L- CURVE 1
PI Sta 9+39.60
 $\Delta = 312' 32.0"$ (LT)
D = 215' 00.0"
L = 142.62'
T = 71.33'
R = 2,546.48'

-L- CURVE 2
PI Sta 12+10.98
 $\Delta = 559' 49.9"$ (LT)
D = 130' 00.0"
L = 399.81'
T = 200.09'
R = 3,819.72'

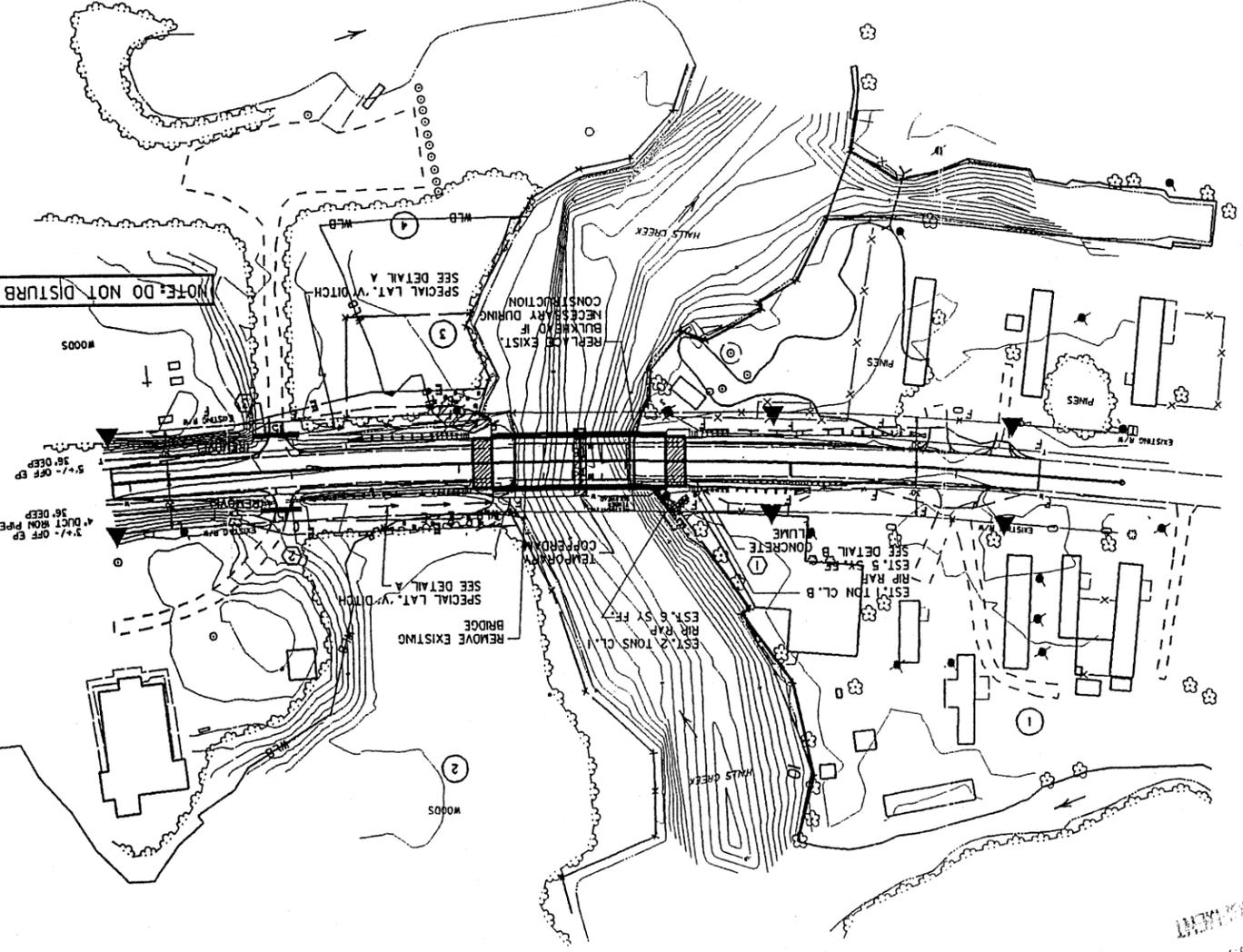
NOTES: SEE PLANS FOR TEMPORARY BUNDLES AND FILL IN SURFACE WATERS

- DENOTES FILL IN WETLANDS
- DENOTES EXCAVATION IN WETLANDS
- DENOTES MECHANIZED SHOULDERS BUTTER CLEARING
- DENOTES APPROACH SLAB

c:\j\2005\1502\design\4222.dwg -rs_permpsh.dgn
 15-JAN-2005 13:02
 15-2005-01-15-4222



- DENOTES TEMPORARY FILL IN SURFACE WATERS
- DENOTES FILL IN WETLANDS
- DENOTES EXCAVATION IN WETLANDS
- DENOTES MECHANIZED CLEARING



RECEIVED
 MAY 10 6 2005
 CIVIL ENGINEERING DEPARTMENT

WIGHT

FOR -L- PROFILE SEE SHEET NO.5

SEE SHEETS S-1 THRU S-2 FOR STRUCTURE PLANS

PROJECT REFERENCE NO.	B-4222
SHEET NO.	4
R/W SHEET NO.	
ROADWAY DESIGN ENGINEER	ENGLISH
HYDRAULICS ENGINEER	

ENGLISH

REVISIONS

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Lucy
36.2198704 N
76.2765318 W

X ref 200110947

Action ID. 200510770

County: Pasquotank

USGS Quad: Nixontown

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

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

Address: Environmental management Director, PDEA
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Telephone No.: (919) 733-3141

Size and location of property (water body, road name/number, town, etc.): The project is located at bridge # 24 located on NCSR 1140 just west of NCSR 1136 adjacent to and crossing Halls Creek. TIP # B-4222.

Description of projects area and activity: Replace an existing 8 span bridge structure with a new 2 span structure impacting 0.036 acres of wetlands. Note - See attached additional special conditions.

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

Authorization: Regional General Permit Number: _____
Nationwide Permit Number: NW # 23

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

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

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

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

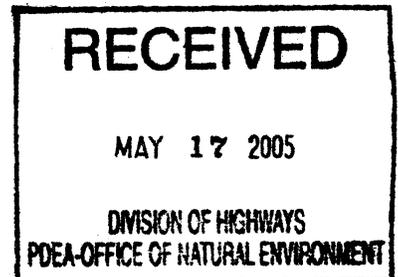
This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Bill Biddlecome at (252) 975-1616 ext. 31.

Corps Regulatory Official William J. Biddlecome

Date: 05/09/2005

Expiration Date of Verification: 03/18/2007



Determination of Jurisdiction:

- Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued 01/15/2004. Action ID 200110947

Basis of Jurisdictional Determination: _____

Corps Regulatory Official: William J. Biddecone

Date 05/09/2005

Copy Furnished:

Additional Special Conditions

Action I.D. # 200510770 & 200510903 NCDOT, Division 1, NCSR 1140, Bridge # 24
Replacement in Pasquotank County

a) Compensatory mitigation for the unavoidable impacts to 0.036 acres of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated October 26, 2004, from William D. Gilmore, EEP Transition Manager. The EEP will provide 0.36 acres of preservation of riverine wetlands in the Northern Outer Coastal Plain co-Region at the Cashie Site in Bertie County that has been acquired and protected by the EEP. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide a minimum of 1:1 acres of restoration of riverine wetlands in the Pasquotank River basin (Hydrologic Cataloging Unit 03010205 by July 22, 2005 and half of the proposed preservation mitigation would be available at that time for mitigation for other project impacts. 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.

b) All in-water work for the site must be completed outside an in-water work moratorium from February 15 through June 30.

c) The existing bridge will be removed in accordance with NCDOT Best Management Practices for Bridge Demolition and Removal.

d) The permittee will utilize turbidity or sediment curtains upstream and downstream during the removal and replacement of the bridge. These curtains will remain in place for 72 hours after all sediments have settled out of the water column.

Action ID Number: 200510770

County: Pasquotank

Permittee: NCDOT

Date Permit Issued: 05/09/2005

Project Manager: Biddlecome

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

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
WASHINGTON REGULATORY FIELD OFFICE
P.O. BOX 1000
WASHINGTON, NORTH CAROLINA 27889

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

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

Signature of Permittee

Date

Thorpe

U.S. ARMY CORPS OF ENGINEERS

WILMINGTON DISTRICT

xref 200510770 + 200110947

Action ID: 200510903

County: Pasquotank

USGS Quad: Nixontown

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

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

Address: Environmental management Director, PDEA

1548 Mail Service Center

Raleigh, North Carolina 27699-1548

Telephone No.: (919) 733-3141

Size and location of property (water body, road name/number, town, etc.): The project is located at bridge # 24 located on NCSR 1140 just west of NCSR 1136 adjacent to and crossing Halls Creek. TIP # B-4222.

Description of projects area and activity: Construct a temporary cofferdam and dewater 0.01 acres of waters. Note - See attached additional special conditions.

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

Authorization: Regional General Permit Number: _____
Nationwide Permit Number: NW #33

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

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

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

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

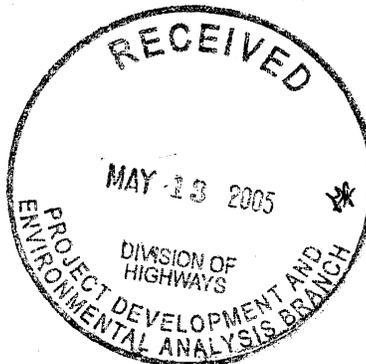
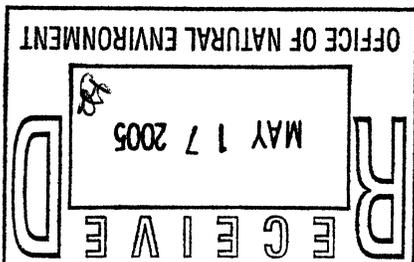
This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Bill Biddlecome at (252) 975-1616 ext. 31.

Corps Regulatory Official *William J. Biddlecome*

Date: 05/09/2005

Expiration Date of Verification: 03/18/2007



Determination of Jurisdiction:

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

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

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

- The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued 01/15/2004. Action ID 200110947

Basis of Jurisdictional Determination: _____

Corps Regulatory Official: William J. Biddlestone

Date 05/09/2005

Copy Furnished:

Additional Special Conditions

Action I.D. # 200510770 & 200510903 NCDOT, Division 1, NCSR 1140, Bridge # 24
Replacement in Pasquotank County

a) Compensatory mitigation for the unavoidable impacts to 0.036 acres of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated October 26, 2004, from William D. Gilmore, EEP Transition Manager. The EEP will provide 0.36 acres of preservation of riverine wetlands in the Northern Outer Coastal Plain co-Region at the Cashie Site in Bertie County that has been acquired and protected by the EEP. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide a minimum of 1:1 acres of restoration of riverine wetlands in the Pasquotank River basin (Hydrologic Cataloging Unit 03010205 by July 22, 2005 and half of the proposed preservation mitigation would be available at that time for mitigation for other project impacts. 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.

b) All in-water work for the site must be completed outside an in-water work moratorium from February 15 through June 30.

c) The existing bridge will be removed in accordance with NCDOT Best Management Practices for Bridge Demolition and Removal.

d) The permittee will utilize turbidity or sediment curtains upstream and downstream during the removal and replacement of the bridge. These curtains will remain in place for 72 hours after all sediments have settled out of the water column.

Action ID Number: 200510903

County: Pasquotank

Permittee: NCDOT

Date Permit Issued: 05/09/2005

Project Manager: Biddlecome

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

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
WASHINGTON REGULATORY FIELD OFFICE
P.O. BOX 1000
WASHINGTON, NORTH CAROLINA 27889

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

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

Signature of Permittee

Date

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/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 $\frac{1}{4}$ -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 $\frac{1}{2}$ -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 $\frac{1}{4}$ -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 $\frac{1}{3}$ -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, $\frac{1}{4}$ -acre of wetlands cannot be created to change a $\frac{3}{4}$ -acre loss of wetlands to a $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However, $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a $\frac{1}{2}$ -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 100-year 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. Runoff 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 coarse substrate in riffles results in a rough flow, a turbulent surface and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

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 is 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 NWP 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

Swamp Forest-Bog Complex
Swamp Forest-Bog Complex (Spruce Subtype)
Southern Appalachian Bog (Northern Subtype)
Southern Appalachian Bog (Southern Subtype)
Southern Appalachian Fen

Piedmont Bogs

Upland Depression Swamp Forest

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

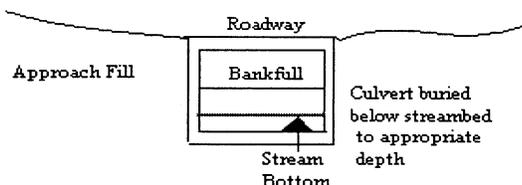
a. Individual or multiple NWP may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

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, NWP 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 NWP's 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

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 $\frac{1}{4}$ -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 $\frac{1}{4}$ -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 $\frac{1}{2}$ -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, $\frac{1}{4}$ -acre of wetlands cannot be created to change a $\frac{3}{4}$ -acre loss of wetlands to a $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However, $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a $\frac{1}{2}$ -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 100-year 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. Runoff 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 NWP, 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 NWP 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 coarse substrate in riffles results in a rough flow, a turbulent surface and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

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 is 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 NWP's 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

Swamp Forest-Bog Complex
Swamp Forest-Bog Complex (Spruce Subtype)
Southern Appalachian Bog (Northern Subtype)
Southern Appalachian Bog (Southern Subtype)
Southern Appalachian Fen

Piedmont Bogs

Upland Depression Swamp Forest

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

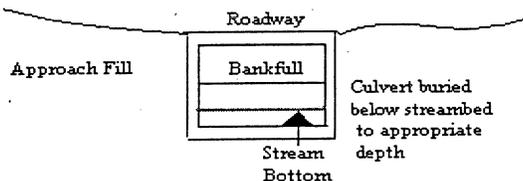
a. Individual or multiple NWPs may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

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



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

July 11, 2005

To: File

From: Michael Turchy, Permit Specialist

Subject: B-4222 Water Quality (401) Certification

Written concurrence with the 401 certification is not required for this project, per Division of Water Quality Certifications # GC3403, and GC3366. Written concurrence from DWQ is not required unless any standard condition of the General Certification(s), and additional commitments developed through permitting (Greensheet) cannot be met.

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

WQC #3403

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

WQC #3366

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 33 (TEMPORARY CONSTRUCTION, ACCESS AND DEWATERING) 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) (33) of the Corps of Engineers regulations (i.e., Nationwide Permit No. 33) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. The category of activities shall include any fill activity for temporary construction, access and de-watering. This Certification replaces Water Quality Certification Number 2727 issued on May 1, 1992 and Certification Number 3114 issued on February 11, 1997. This WQC is rescinded when the Corps of Engineers reauthorize Nationwide Permit 33 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 appropriate 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. 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;

WQC #3366

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;

WQC #3366

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.

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.

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: 18 March 2002

DIVISION OF WATER QUALITY

By

Gregory J. Thorpe, Ph.D.

Acting Director

WQC # 3366

