



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 29, 2007

MEMORANDUM TO: Mr. H. Allen Pope, PE
Division Three Engineer

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

SUBJECT: Sampson County, Replace Bridge No.98 on SR 1246 over
Big Swamp; T.I.P. Number B-4271; Federal Aid Project
BRZ-1246(2); State Project 8.2281701

Attached is the U. S. Army Corps of Engineers 404 Nationwide Permit Number 23 and the general conditions for the 401 Water Quality Certification for the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

Cc:

Mr. Majed Alghandour, P. E., Programming and TIP
Mr. Jay Bennett, P.E., Roadway Design
Dr. David Chang, P.E., Hydraulics
Mr. Randy Garris, P.E. State Contract Officer
Mr. Art McMillan, P.E., Highway Design
Mr. Greg Perfetti, P.E., Structure Design
Mr. Mark Staley, Roadside Environmental
Mr. John F. Sullivan, FHWA
Mr. Rob Hanson, P.E., PDEA Eastern Region Unit Head
Mr. Mason Herndon, Division Environmental Officer

PROJECT COMMITMENTS:

**Replacement of Bridge No. 98
On SR 1246 over Big Swamp
Sampson County
Federal Aid Project No. BRZ-1246(2)
State Project No. 8.2281701
W.B.S. No. 33612.1.1
T.I.P. No. B-4271**

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

Commitments Developed Through Project Development

Hydraulics Unit, Roadside Environmental Unit, Division 3 Construction Office, and Structure Design Unit

- 1) NCDOT will adhere to the Best Management Practices (BMPs) for "Bridge Demolition and Removal" during the removal of Bridge No. 98.
- 2) The total time of **road closure** for this project should be held to a minimum due to the 11.3 mile detour. The contractor should be given incentives to minimize the road closure for the project. The **total project construction time** can be longer, as long as work can be done under traffic.

Commitments Developed Through Permitting

Natural Environment Unit, Roadside Environmental Unit, Division 3 Construction Office

- 1) The permittee shall restore 0.06 acres of riparian wetlands on-site as described in the Wetland Restoration Plan at Bridge No. 98 over Big Swamp on SR 1246, Sampson County, dated January 2007. The permittee will complete all construction and vegetation plantings in accordance with this plan within 6 months of the expiration of this Verification. The permittee shall fully implement the specified monitoring plan in accordance with the mitigation plan and success criteria. If any of the success criteria are not met after three years, the permittee shall submit to the Corps a determination as to the corrective action to be taken.
- 2) The permittee will provide annual monitoring reports to the Corps on or before April 30th of each year until the success criteria have been met to the satisfaction of the Corps.
- 3) The permittee shall preserve and maintain in perpetuity the 0.06 acres of restored wetlands as shown on the project plans. The permittee, and any successor in interest, is prohibited from performing any of the following activities on this property: Filling; grading; excavating; earth movement of any kind; construction of roads, walkways,

buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material; or any other activity which would result in the wetlands being adversely impacted or destroyed. These provisions relating to the mitigation areas cannot be amended or modified without express written consent of the U.S. Army Corps of Engineers, Wilmington District.

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

RECEIVED

JUN 25 2007

Action ID. SAW-2003-883-082

County: Sampson

USGS Quad: Roseboro

Calfee

DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner / Authorized Agent: NC Department of Transportation: Division of Highways

Address: Attn: Gregory J. Thorpe, Ph.D.

Project Development and Environmental Analysis

1598 Mail Service Center

Raleigh, North Carolina 27699-1598

Telephone No.: 919-715-7257

Size and location of property (water body, road name/number, town, etc.): The project area (TIP No. B-4271) is Bridge No. 98 over Big Swamp, SR 1246 (Butler Island Road), southwest of Roseboro, in Sampson County, North Carolina. (34.9279N, 78.5426W).

Description of projects area and activity: On-site replacement of existing bridge with a new bridge approximately 120 feet in length, with three spans of 35', 50' and 35'. Excavation of and the permanent discharge of fill material into 0.05 acres of jurisdictional wetlands for roadway fill.

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: 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 is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. 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 new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under any NWP.

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 in Wilmington, NC, at (910) 796-7215.

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 Jennifer Frye at 910-251-4923.

Corps Regulatory Official *Jennifer A. Frye*

Date: 06/18/2007

Expiration Date of Verification: 6/18/2009

Determination of Jurisdiction:

- A. 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).
- B. 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.
- C. 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.
- D. The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued 6/23/2003. Action ID 200300883

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://www.saw.usace.army.mil/WETLANDS/index.html> to complete the survey online.

Copy Furnished:

Mr. Mason Herndon, DOT Division Office, Highway Division 3, 124 Division Drive, Wilmington, NC 28401
Mr. Worth Calfee, NCDOT, PDEA, 1598 Mail Service Center, Raleigh, NC 27699-1598
Mr. Ken Averitte, DENR-DWQ, FRO, 225 Green Street, Suite 714, Fayetteville, NC 28301-5043

Action ID Number: SAW-2003-0883-082

County: Sampson

Permittee: NC Department of Transportation: Division of Highways
Mr. Gregory J. Thorpe, Ph.D.
Project Development and Environmental Analysis

Date Permit Issued: 6/18/2007

Project Manager: Jennifer Frye

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
WILMINGTON REGULATORY FIELD OFFICE
POST OFFICE BOX 1890
WILMINGTON, NORTH CAROLINA 28402

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

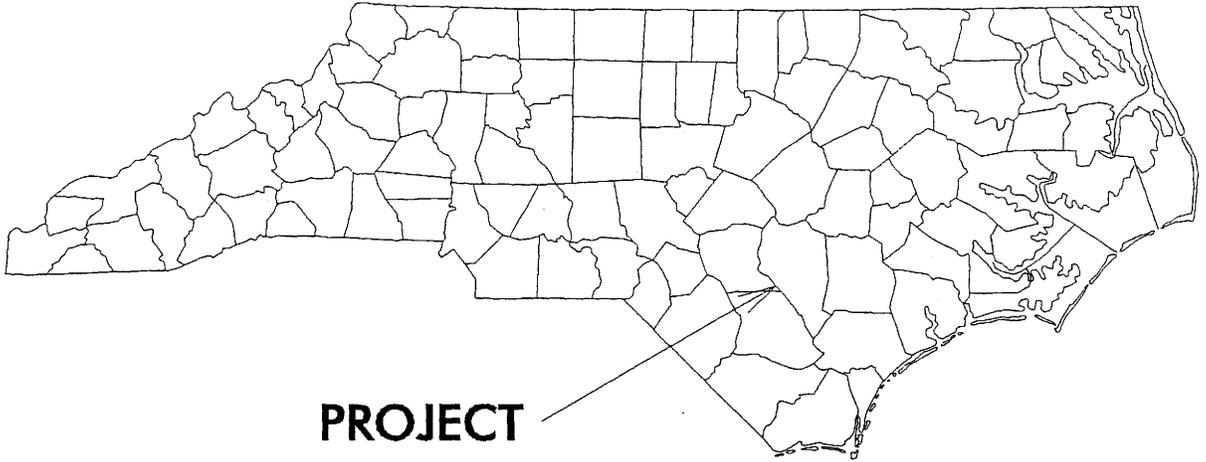
Date

SPECIAL CONDITIONS:

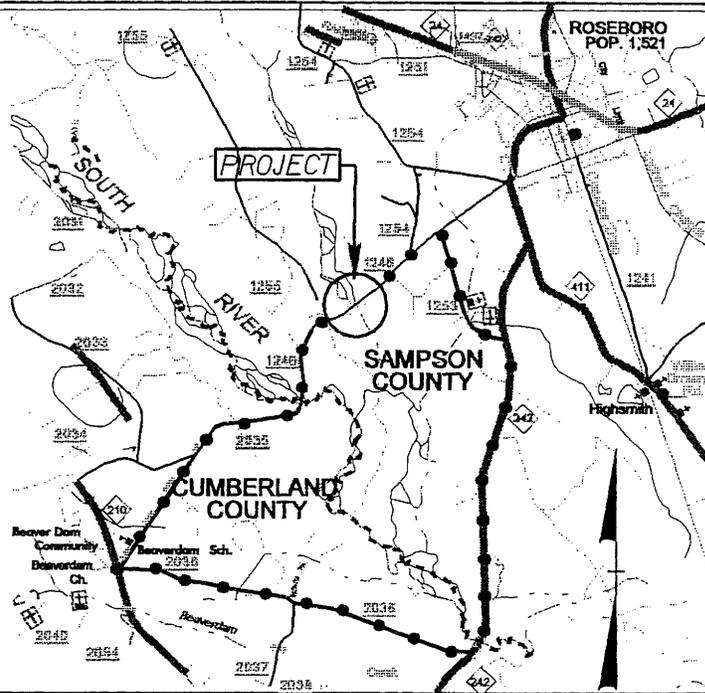
- 1) The permittee shall restore **0.06** acres of riparian wetlands on-site as described in the *Wetland Restoration Plan at Bridge No. 98 over Big Swamp on SR 1246, Sampson County*, dated January 2007 (attached). The permittee will complete all construction and vegetation plantings in accordance with this plan within 6 months of the expiration of this Verification. The permittee shall fully implement the specified monitoring plan in accordance with the mitigation plan and success criteria. If any of the success criteria are not met after three years, the permittee shall submit to the Corps a determination as to the corrective action to be taken.
- 2) The permittee will provide annual monitoring reports to the Corps on or before April 30th of each year until the success criteria have been met to the satisfaction of the Corps.
- 3) The permittee shall preserve and maintain in perpetuity the **0.06** acres of restored wetlands as shown on the attached project plans. The permittee, and any successor in interest, is prohibited from performing any of the following activities on the property: Filling; grading; excavating; earth movement of any kind; construction of roads, walkways, buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material; or any other activity which would result in the wetlands being adversely impacted or destroyed. These provisions relating to the mitigation areas cannot be amended or modified without the express written consent of the U.S. Army Corps of Engineers, Wilmington District.

Corps Regulatory Official:  Date: 6/18/2007

NORTH CAROLINA

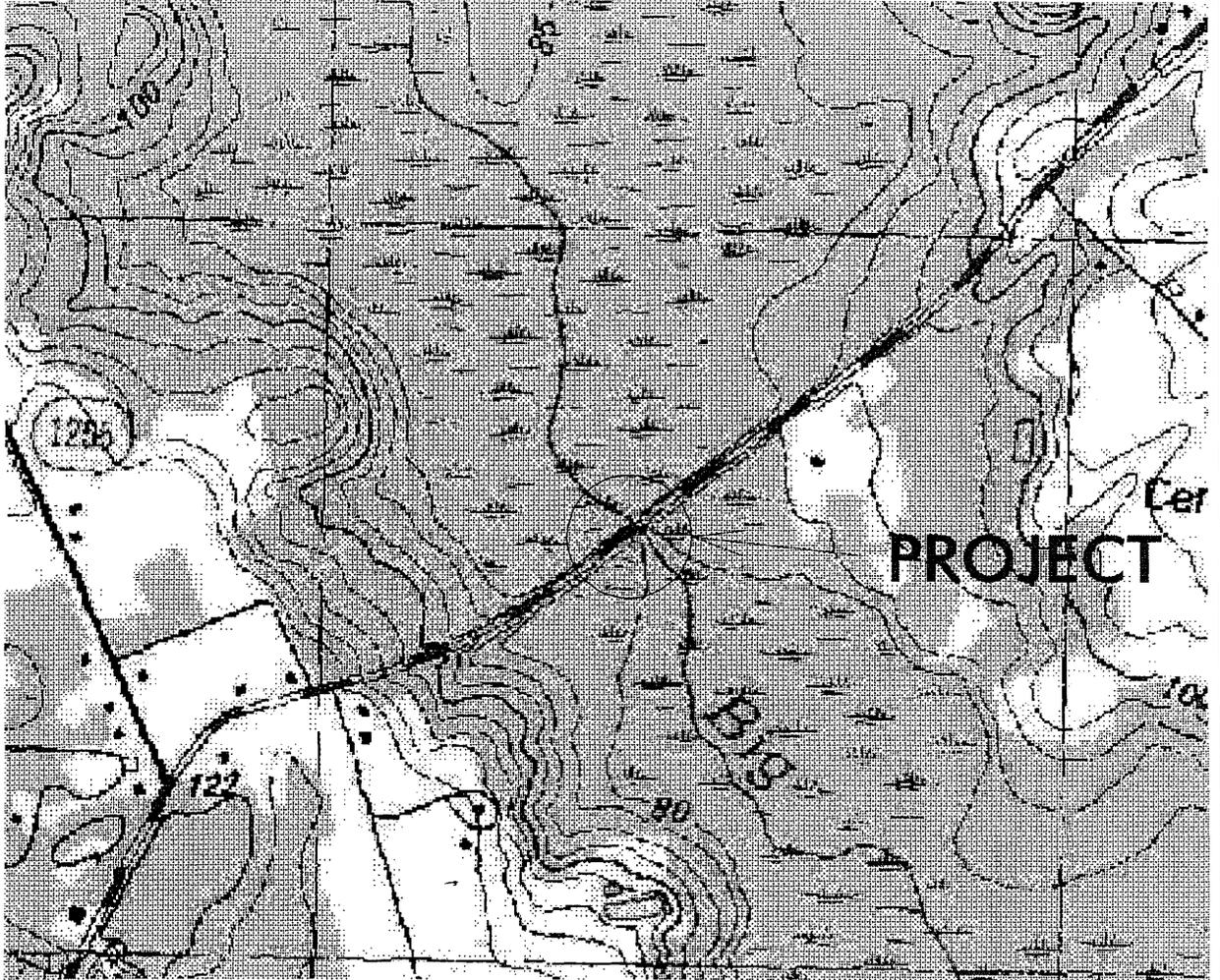


PROJECT



VICINITY MAPS

NCDOT
DIVISION OF HIGHWAYS
SAMPSON COUNTY
PROJECT: 8.2281701 (B-4271)
WBS 33612.1.1
SR 1246 OVER BIG SWAMP



SITE
MAP

NCDOT
DIVISION OF HIGHWAYS
SAMPSON COUNTY
PROJECT: 8.2281701 (B-4271)
WBS 35612.1.1
SR 1246 OVER BIG SWAMP

WETLAND PERMIT IMPACT SUMMARY

| Site No. | Station (From/To) | Structure Size / Type | WETLAND IMPACTS | | | | SURFACE WATER IMPACTS | | | | | | | |
|----------------|---------------------------------|-----------------------|---------------------------------|-----------------------------|-----------------------------|--------------------------------------|--------------------------------|---------------------------|-----------------------|---|-------------------------------------|----------------------------|--|--|
| | | | Permanent Fill In Wetlands (ac) | Temp. Fill In Wetlands (ac) | Excavation in Wetlands (ac) | Mechanized Clearing in Wetlands (ac) | Hand Clearing in Wetlands (ac) | Permanent SW Impacts (ac) | Temp. SW Impacts (ac) | Existing Channel Impacts Permanent (ft) | Existing Channel Impacts Temp. (ft) | Natural Stream Design (ft) | | |
| 1 | 12+69.16 -L- TO 21+50.00 -L- | Bridge | 0.050 | | | | | | | | | | | |
| TOTALS: | | | 0.050 | | | | | | | | | | | |

Restored Wetlands = 0.06 ac.
 (Existing Embankment Removed)
 Structure comments: Existing bridge can be removed
 without debris falling into water.
 Area of interior bents in stream is 12 sq. ft/bent
 for a total of 24 sq. ft.

NC DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 SAMPSON COUNTY
 PROJECT: 8-2281701 (B-4271)
 WBS 33612.1.1

PROPERTY OWNERS

NAMES AND ADDRESSES

| PARCEL NO. | NAMES | ADDRESSES |
|------------|--------------------|---|
| 1 | JAMES M. HOBBS | 148 PINE CREST LANE SOLEMBURG, NC 28385 |
| 2 | JOHNNY DUDLEY | 3603 HAYNE STRETCH ROAD ROSEBORO, NC 28382 |
| 3 | MILDRED H. JACKSON | 2119 BUTLER ISLAND ROAD ROSEBORO, NC 28382 |
| 4 | DONALD LUCAS | 1671 BUTLER ISLAND ROAD ROSEBORO, NC 28382 |
| 5 | KEVIN LUCAS | BUTLER ISLAND ROAD ROSEBORO, NC 28382 |

NCDOT

DIVISION OF HIGHWAYS
SAMPSON COUNTY

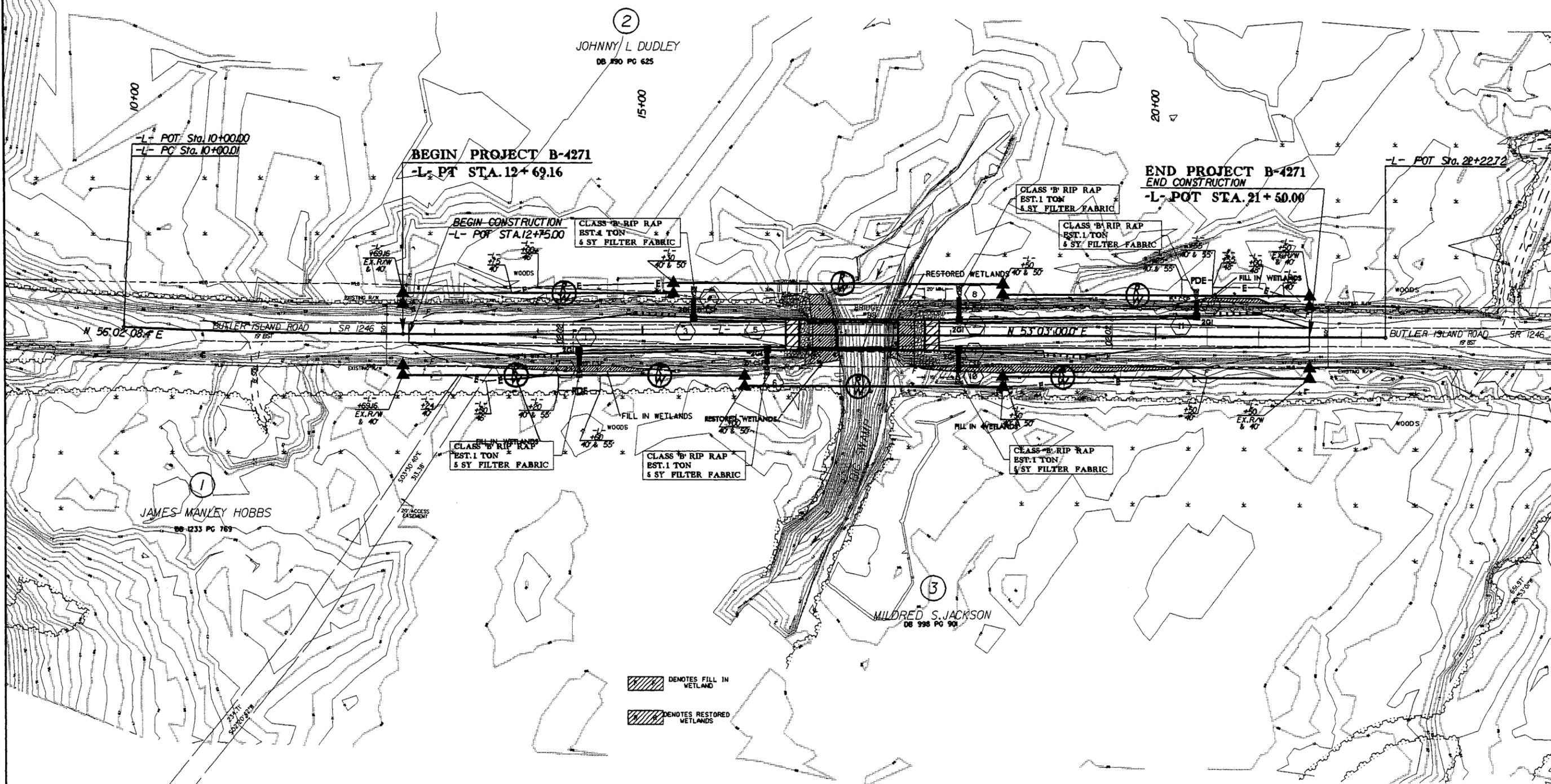
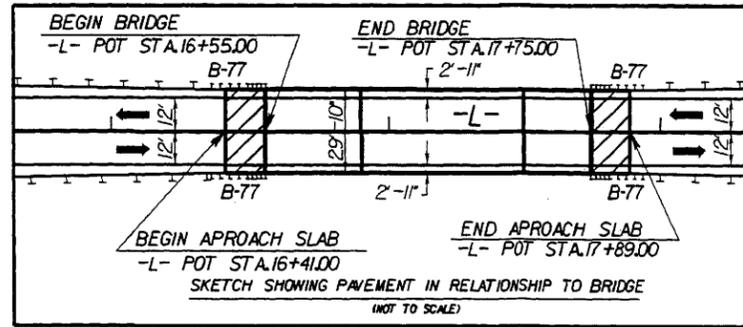
PROJECT: 8.2281701 (B-4271)

WBS 33612.1.1

SR 1246 OVER BIG SWAMP

| | |
|-------------------------|---------------------|
| PROJECT REFERENCE NO. | SHEET NO. |
| B-4271 | 4 |
| RW SHEET NO. | |
| ROADWAY DESIGN ENGINEER | HYDRAULICS ENGINEER |

-L- CURVE DATA
 PI Sta 11+34.61
 $\Delta = 2^{\circ}59'08.4"$ (LT)
 $D = 1^{\circ}05'33.5"$
 $L = 269.15'$
 $T = 134.60'$
 $R = 5165.00'$
 SE = EXISTING



NOTES: (1) SEE SHEET 5 FOR -L- PROFILE
 (2) SEE SHEETS S-1 TO S-20 FOR STRUCTURE DETAILS

**Wetland Restoration Plan
At Bridge No. 98 over Big Swamp
on SR 1246
Sampson County**

**TIP B-4271
Federal Aid Project No. BRZ-1246 (2)
WBS No. 33612.1.1**

January, 2007

The North Carolina Department of Transportation (NCDOT) will perform on-site mitigation for wetland impacts at the SR 1246 overpass of Big Swamp. This mitigation site occurs within Transportation Improvement Program (TIP) B-4271. The project begins approximately 390 feet west of Bridge No. 98 and continues for approximately 490 feet to the west of the bridge. The roadway project will impact 0.05 acres of unavoidable wetlands. NCDOT will restore approximately 0.06 acres of coastal plain small stream swamp wetland as onsite mitigation for the impacts on B-4271.

EXISTING CONDITIONS

The project is located in Sampson County, southwest of Roseboro, approximately 3 miles from the intersection of NC 242 and SR 1246 (Butler Island Rd.) close to the Sampson and Cumberland County line. The project study area land use is primarily comprised of agricultural and forested land.

The Natural Resources Technical Report for TIP B-4271, dated March 2003, provides further details concerning existing roadway and project study area conditions.

The existing embankments of the approaches to Bridge No. 98 are located within the floodplain of Big Swamp within a wetland community known as a Coastal Plain Small Stream Swamp. The wetland is dominated by tulip poplar (*Liriodendron tulipifera*), sweet bay (*Magnolia virginiana*), fetterbush (*Lyonia lucida*) and a herbaceous layer of cane (*Arundinaria gigantea*). The transition zone where the wetland grades into the existing causeway slope is dominated by cane (*Arundinaria gigantea*).

PROPOSED CONDITIONS DESIGN

The proposed wetland mitigation will consist of restoring 0.06 acres of riverine wetland with 0.03 acres of restoration occurring underneath the new bridge span. Restoration will involve removing causeway fill and transition area along both approaches to Bridge No. 98 to match the adjacent wetland elevation. Representative spot elevations will be taken in all four quadrants of the bridge project within the adjacent reference wetland to

determine target elevations. Excavated areas will be ripped and disked prior to planting of the site if necessary.

The Natural Environment Unit shall be contacted to provide construction oversight to ensure that the wetland mitigation area is constructed appropriately.

VEGETATION PLANTING

Native grass seeding and mulching will be performed on all disturbed areas within the wetland restoration area for stabilization purposes according to guidance and standard procedures of NCDOT's Roadside Environmental Unit (Appendix A).

The restoration areas adjacent to the new bridge structure will also be planted following the successful completion of site grading and stabilization. They will be planted with bottomland hardwood species including at least three of the following: water oak (*Quercus nigra*), tulip poplar (*Liriodendron tulipifera*), green ash (*Fraxinus pennsylvanica*), willow oak (*Quercus phellos*), sycamore (*Platanis occidentalis*), water tupelo (*Nyssa aquatica*), swamp chestnut oak (*Quercus michauxii*).

MONITORING

Upon successful completion of construction, the following monitoring strategy is proposed for the mitigation site. NCDOT will document monitoring activities on the site in an annual report distributed to the regulatory agencies.

HYDROLOGIC MONITORING

No specific hydrological monitoring is proposed for this restoration site. The target elevation will be based on the reference wetland and verified during construction. Constructing the site at the adjacent wetland elevation will ensure the hydrology in the restored area is similar to the hydrology in the reference area.

VEGETATION SUCCESS CRITERIA

NCDOT shall monitor the restoration site by visual observation and photo points for survival and aerial cover of vegetation. NCDOT shall monitor the site for a minimum of three years or until the site is deemed successful. Monitoring will be initiated upon completion of the site planting.

Appendix A

Native Grass Seeding and Mulching

Bermuda

Native Grass Seeding and Mulching shall be performed on the disturbed areas of wetlands, and adjacent to Stream Relocation construction within a 50 foot zone on both sides of the stream or depression, measured from top of stream bank or center of depression. The stream bank of the stream relocation shall be seeded by a method that does not alter the typical cross section of the stream bank. Native Grass Seeding and Mulching shall also be performed in the permanent soil reinforcement mat section of preformed scour holes, and in other areas as directed.

The kinds of seed and fertilizer, and the rates of application of seed, fertilizer, and limestone, shall be as stated below. During periods of overlapping dates, the kind of seed to be used shall be determined. All rates are in pounds per acre.

| March 1 - August 31 | | September 1 - February 28 | |
|----------------------------|-----------------------|----------------------------------|-------------------------|
| 25# | Bermudagrass (hulled) | 35# | Bermudagrass (unhulled) |
| 6# | Indiangrass | 6# | Indiangrass |
| 8# | Little Bluestem | 8# | Little Bluestem |
| 4# | Switchgrass | 4# | Switchgrass |
| 25# | Browntop Millet | 35# | Rye Grain |
| 500# | Fertilizer | 500# | Fertilizer |
| 4000# | Limestone | 4000# | Limestone |

Fertilizer shall be 10-20-20 analysis. Upon written approval of the Engineer, a different analysis of fertilizer may be used provided the 1-2-2 ratio is maintained and the rate of application adjusted to provide the same amount of plant food as a 10-20-20 analysis.

Native Grass Seeding and Mulching shall be performed in accordance with Section 1660 of the *Standard Specifications* and vegetative cover sufficient to restrain erosion shall be installed immediately following grade establishment.

Measurement and Payment

Native Grass *Seeding and Mulching* will be measured and paid for in accordance with Article 1660-8 of the *Standard Specifications*.

**NATIONWIDE PERMIT 23
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2007**

Approved Categorical Exclusions. Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

(a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity 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

(b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this NWP.

Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters. (Sections 10 and 404)

Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are the: Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07, which is available at:

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rglsindx.htm>. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same web site.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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

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

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

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

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

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

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized

Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

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

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

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

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

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

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

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

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

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

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

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:
“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate

Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

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

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

(2) Location of the proposed project;

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

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

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

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

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

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

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

(after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

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

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

FURTHER INFORMATION

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

DEFINITIONS

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

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

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

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

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a

flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

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

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

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

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

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

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

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

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

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

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through

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

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

Henderson, Jackson, Macon Mecklenburg, Mitchell, Stokes, Surry, Swain, Transylvania, Union and Yancey.

Website and office addresses for Endangered Species Act Information:

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

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

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

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

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

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

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

2.2. Special Designation Waters

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

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

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

NCWRC and NC Trout Counties

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

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

3.0 List of Corps Regional Conditions for All Nationwide Permits

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

3.1. Limitation of Loss of Perennial Stream Bed

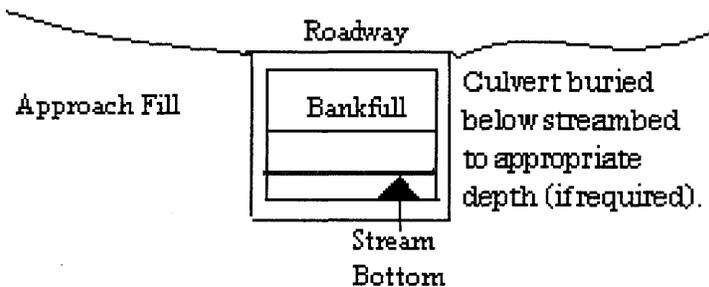
NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of perennial streams. The NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of ephemeral and intermittent streams that exhibit important aquatic function(s)* Loss of stream includes the linear feet of stream bed that is filled, excavated, or flooded by the proposed activity. The District Commander can waive the 300 linear foot limit for ephemeral and intermittent streams on a case-by-case basis if he determines that the proposed activity will result in minimal individual and cumulative adverse impacts to the aquatic environment. Waivers for the loss of ephemeral and intermittent streams must be in writing. This waiver only applies to the 300 linear feet threshold for NWPs. Mitigation may still be required for impacts to ephemeral and intermittent streams, on a case-by-case basis, depending on the impacts to the aquatic environment of the proposed project. [*Note: The Corps uses the Stream Quality Assessment Worksheet, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of aquatic function within the intermittent stream channel.]

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

3.6. Safe Passage Requirements for Culvert Placement

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

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



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

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

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

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

NC DIVISION OF WATER QUALITY - GENERAL CERTIFICATION CONDITIONS

For the most recent General Certification conditions, call the NC Division of Water Quality, Wetlands/401 Certification Unit at (919) 733-1786 or access the following website:
<http://h2o.enr.state.nc.us/ncwetlands/certs.html>

NC DIVISION OF COASTAL MANAGEMENT - STATE CONSISTENCY

In a letter dated May 7, 2007, the North Carolina Division of Coastal Management found this NWP consistent with the North Carolina Coastal Zone Management Program. Updates on CAMA Consistency for NC can be found on the NC DCM web site at:
<http://dcm2.enr.state.nc.us/Permits/consist.htm>

EASTERN BAND OF THE CHEROKEE INDIANS TRIBAL WATER QUALITY CERTIFICATIONS

In a letter dated May 8, 2007, US EPA, on behalf of the Eastern Band of Cherokee Indians, provided Tribal General Conditions for Nationwide Permits on Cherokee Indian Reservation. These Tribal General Conditions are located on the Corps website at:
<http://www.saw.usace.army.mil/WETLANDS/NWP2007/EBCI-certs.html>

Citations:

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

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

2007 SAW Regional Conditions – Authorized June 1, 2007

This and other information can be found on the Corps web site at:
<http://www.saw.usace.army.mil/WETLANDS/NWP2007/nationwide-permits.html>

WQC #3632

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 and WQC Number 3403 issued March 28, 2003. 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 #3632

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 #3632

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: 19 March 2007

DIVISION OF WATER QUALITY

By

A handwritten signature in black ink that reads "Alan Klimek". The signature is written in a cursive, flowing style.

Alan W. Klimek, P.E.

Director

WQC # 3632