



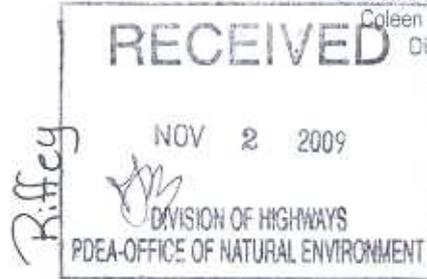
North Carolina Department of Environment and Natural Resources

Division of Water Quality

Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary



October 26, 2009
Ashe County
NCDWQ Project No. 20090379, v.3
NC 16 Widening
TIP/State Project No. R-2100B

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

Dr. Greg Thorpe, P.E.,
NCDOT PDEA-NEU
1598 Mail Service Center
Raleigh, NC 27699-1598

Dear Dr. Thorpe:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of widening NC 16 Southeast of SR 1158 (Claudermash Road) to southeast of NC 88 in Ashe County, Federal Aid Project:

Stream Impacts in the New River Basin

Site No.	Stream no. impact	Stream name	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
1	S2	UT 2 to Brush Creek	45	14	59	NA
2	S3	UT3 to Brush Creek	32	8	40	NA
3	S4	UT4A to Brush Creek	32	7	39	NA
4A	S1	Brush Creek (UT1)	15	0	15	NA
4B	S5	UT 4 to Brush Creek	52	16	68	NA
6 and 7	S6	UT 6 to Brush Creek	128	42	170	NA
8	S7	UT 7 to Brush Creek	35	31	66	NA
9-13	S13	South Fork New River	50	0	50	NA
14	S8	UT 8 to South Fork	79	25	104	NA
15	S9	UT 9 to South Fork	66	32	98	NA
16	S10	UT 10 to South Fork	46	10	56	NA
17	S11	UT 11 to South Fork	57	20	77	NA

18	S12	Bear Creek	95	34	129	NA
Total	NA	NA	732	239	971	NA

Total Stream Impact for Project: 971 linear feet.

Wetland Impacts in the New River Basin-Non-tidal Freshwater Marsh

Site	Fill (ac)	Fill (temporary) (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Area under Bridge (ac)	Total Wetland Impact (ac)
1	<0.01	0	0	0	0	0	<0.01
Total	<0.01	0	0	0	0	0	<0.01

Total Wetland Impact for Project: <0.01 acres.

The project shall be constructed in accordance with your application dated March 30, 2009 and received by the Division of Water Quality April 6, 2009. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3689, 3704, and 3688. This certification corresponds to the Nationwide Permits 13, 14, and 33, respectively. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

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

Condition(s) of Certification:

1. The permittee shall use /Design Standards in Sensitive Watersheds/[15A NCAC 4B.0124(a)-(e)] in areas draining to ORW waters. However, due to the size of the project, NC DOT shall not be required to meet 15A NCAC 4B .0124(a) regarding the maximum amount of uncovered acres.
2. A specified appropriate mix of herbaceous vegetation shall be planted on all bare soil as soon as possible following the completion of permanent or temporary ground disturbing activities to provide long-term erosion control. Supplemental seeding may be needed to assure a satisfactory vegetative establishment. Tall fescue shall not be used in establishment of temporary or permanent groundcover within riparian areas*. For the establishment of permanent herbaceous cover, erosion control matting shall be used in conjunction with appropriate seeding on disturbed soils within the riparian area and on disturbed steep slopes with the following exception: (Erosion control matting is not necessary if the area is contained by perimeter erosion control devices, such as silt fence, temporary sediment ditches, basins, etc. Matting should be secured in place with staples, stakes, or, wherever possible, live stakes of native trees. Erosion control matting placed

in riparian buffer areas shall not contain a nylon mesh grid, which can impinge and entrap small animals. For the establishment of temporary groundcover within riparian areas, hydro seeding, along with wood or cellulose based hydro mulch applied from a fertilizer and limestone free tank, is allowable at the appropriate rate in conjunction with the erosion control measures. Discharging hydro seed mixtures and wood or cellulose mulch into surface waters is prohibited.

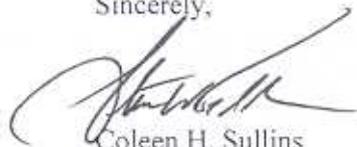
*Riparian areas are defined as a distance 25 feet landward from top of stream bank.

3. Two copies of the final construction drawings shall be furnished to NCDWQ Central Office prior to the pre-construction meeting. The permittee shall provide written verification that the final construction drawings comply with the permit drawings contained in the application dated March 30, 2009. Any deviations from the approved drawings are not authorized unless approved by the NC Division of Water Quality.
4. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.
5. Bridge deck drains should not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of Stormwater Best Management Practices.
6. No drill slurry or water that has been in contact with uncured concrete shall be allowed to enter surface waters. This water shall be captured, treated, and disposed of properly.
7. For projects impacting waters classified by the NC Environmental Management Commission as Trout (Tr), High Quality Waters (HQW), or Water Supply I or II (WSI, WSII) stormwater shall be directed to vegetated buffer areas, grass-lined ditches or other means appropriate to the site for the purpose of pre-treating storm water runoff prior to discharging directly into streams. Mowing of existing vegetated buffers is strongly discouraged.
8. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
9. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
10. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.
11. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.
12. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.

13. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
14. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
15. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
16. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification..
17. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.
18. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
19. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.
20. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.

If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699. This certification and its conditions are final and binding unless you ask for a hearing. This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact Amy Euliss at (336)771-4959.

Sincerely,



Coleen H. Sullins
Director

Cc: John Thomas, US Army Corps of Engineers, Raleigh Field Office
Heath Slaughter, Division 11 Environmental Officer
Marla Chambers, NC Wildlife Resources Commission
Marella Buncick, USFWS, Asheville Office

NCDWQ Project No.: _____ County: _____
Applicant: _____
Project Name: _____
Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401 Transportation Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to NCDWQ by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

Applicant's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Agent's Certification

I, _____, hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

I, _____, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically, weekly, full time) the construction of the project, for the Permittee hereby state that, to the best of my abilities, due care and diligence was used in the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature _____ Registration No. _____

Date _____