



IN REPLY REFER TO

**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS**

Washington Regulatory Field Office
Post Office Box 1000
Washington, North Carolina 27889-1000

August 24, 2009

Regulatory Division

ORM ID SAW-2007-00157-164

Dr. Gregory J. Thorpe, Ph. D.
Environmental Manager Director
Project Development and Environmental Analysis Branch
NC Department of Transportation
1598 Mail Service Center
Raleigh, North Carolina 27699-1598

Dear Dr. Thorpe:

Reference the Department of the Army permit issued to you on May 21, 2009, for the Rocky Mount Northern Connector, TIP R-2823, starting from SR 1604 (Hunter Hill Road) and ending at US 301, in Nash County and your written request of June 11, 2009, for permit modification. The permit modification requests are as follows:

Site 1	Sheets 7 & 8	Additional wetland impacts: 0.01 acre of fill; 0.02 acre of mechanized clearing; 0.08 acre of hand clearing
Site 3	Sheets 11 & 12	Additional wetland impacts: 0.02 acre of fill; 0.04 acre of hand clearing
Site 5	Sheets 14 & 15	Additional wetland impacts: 0.11 acre of hand clearing
Site 13	Sheets 43 & 44	Additional wetland impacts: 0.05 acre of fill Reduced wetland impacts: 0.01 acre of mechanized clearing Additional stream impacts: 13 linear feet

The permit is hereby modified to include the work as indicated above and shown on the submitted plans. In summary, the final modified permanent impacts to jurisdictional areas of R-2823 will total 6.4 acres of wetlands and 1,952 linear feet of streams. It is understood that all conditions of the original permit remain applicable and that the expiration date is unchanged.

Sincerely,

David M. Lekson, P.W.S.
Chief, Washington Regulatory Field Office

Copies Furnished:

Mr. Steve Sollod
Division of Coastal Management
1638 Mail Service Center
Raleigh, North Carolina 27699-16387

Mr. Brian Wrenn
Water Quality Section
Division of Environmental Management
North Carolina Department of Environment
and Natural Resources
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

Mr. Travis Wilson
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Habitat Conservation Program
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Beaufort, North Carolina 28516

Mr. Chris Militscher
C/O FHWA
U.S. Environmental Protection Agency
Raleigh Office
310 New Bern Avenue, Room 206
Raleigh, North Carolina 27601



North Carolina Department of Environment and Natural Resources

Division of Water Quality

Coleen H. Sullins

Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

June 22, 2009

Dr. Greg Thorpe, PhD., Manager
Planning and Environmental Branch
North Carolina Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina, 27699-1548

Subject: MODIFICATION to 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and TAR-PAMLICO BUFFER RULES with ADDITIONAL CONDITIONS for Proposed Rocky Mount Northern Connector in Nash County, State Project No. 34509.1.1, TIP No. R-2823. DWQ Project No. 20081859 ver. 2.

Dear Dr. Thorpe:

Attached hereto is a copy of the Modification to Certification No. 3781 issued to The North Carolina Department of Transportation dated June 22, 2009.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

 Coleen Sullins
Director

Attachments

cc: William Wescott, US Army Corps of Engineers, Washington Field Office
Tyler Stanton, NCDOT NEU
Chad Coggins, Division 4 Environmental Officer
Ecosystem Enhancement Program
File Copy



North Carolina Department of Environment and Natural Resources
 Division of Water Quality

Beverly Eaves Perdue
 Governor

Coleen H. Sullins
 Director

Dee Freeman
 Secretary

Modification to 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and TAR-PAMLICO BUFFER RULES, with ADDITIONAL CONDITIONS

THIS 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 (DWQ) Regulations in 15 NCAC 2H .0500 and 15A NCAC 2B.0259. This certification modification authorizes the NCDOT additional impacts of 0.32 acres of jurisdictional wetlands, 45 linear feet of jurisdictional streams and 8,052 square feet of protected riparian buffers in Nash County. The project shall be constructed pursuant to the application dated received December 29, 2008 and modification request dated received June 15, 2009. The additional authorized impacts are as described below:

Additional Wetland Impacts in the Tar-Pamlico River Basin

Site	Permanent Fill (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total New Wetland Impact (ac)	New Wetland Impacts Requiring Mitigation (ac)
1	0.01	0	0.02	0.08	0.11	0.03
3	0.02	0	0	0.04	0.06	0.02
5	0	0	0	0.11	0.11	0
13	0.05	0	-0.01 (reduction)	0	0.04	0.04
Total	0.08	0	0.01	0.23	0.32	0.09

Total Additional Wetland Impact for Project: 0.32 acres.

Additional Stream Impacts in the Tar-Pamlico River Basin

Site	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total New Stream Impact (linear ft)	New Stream Impacts Requiring Mitigation (linear ft)
13	13	32	45	13
Total	13	32	45	13

Total Additional Stream Impact for Project: 45 linear feet

Additional Tar-Pamlico Riparian Buffer Impacts

Site	Zone 1 Impact (sq ft)	minus Wetlands in Zone 1 (sq ft)	= New Zone 1 Buffers (not wetlands) (sq ft)	Additional Zone 1 Buffer Mitigation Required (using 3:1 ratio)	Zone 2 Impact (sq ft)	minus Wetlands in Zone 2 (sq ft)	= New Zone 2 Buffers (not wetlands) (sq ft)	Additional Zone 2 Buffer Mitigation Required (using 1.5:1 ratio)
1	57	11	46	N/A	2368	1898	470	N/A
2	357	0	357	1071	2104	0	2104	3156
4	1296	127	1169	3507	1210	1138	72	108
13	429	424	5	15	231	140	91	137
Totals	2139	562	1577	4593	5913	3176	2737	3401

* n/a = Allowable impact; no mitigation required.

Total Additional Buffer Impact for Project: 8,052 square feet.

401 Oversight/Express Review Permitting Unit
 1650 Mail Service Center, Raleigh, North Carolina 27699-1650
 Location: 2321 Crabtree Blvd., Raleigh, North Carolina 27604
 Phone: 919-733-1786 \ FAX: 919-733-6893
 Internet: <http://h2o.enr.state.nc.us/ncwetlands/>





North Carolina Department of Environment and Natural Resources

Division of Water Quality

Beverly Eaves Perdue
Governor

Coleen H. Sullins
Director

Dee Freeman
Secretary

The application provides adequate assurance that the discharge of fill material into the waters of the Tar-Pamlico River Basin in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your application dated received December 29, 2008 and modification request dated received June 15, 2009. Should your project change, you are required to notify the DWQ 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 any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Conditions of Certification:

1. Compensatory mitigation for an additional 45 linear feet of impact to streams is required. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated June 15, 2009 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.
2. Compensatory mitigation for additional impacts to 0.06 acres of riparian wetlands and 0.03 acres of non-riparian wetlands is required. We understand that you have chosen to perform compensatory mitigation for impacts to wetlands through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated June 15, 2009 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.
3. Compensatory mitigation for additional impacts to 1531 square feet of protected riparian buffers in Zone 1 and 2267 square feet of protected riparian buffers in Zone 2 shall be required. We understand that you have chosen to perform compensatory mitigation for impacts to protected buffers through use of the North Carolina Ecosystem Enhancement Program (EEP). Mitigation for unavoidable impacts to Tar-Pamlico Riparian Buffers shall be provided in the Tar-Pamlico River Basin and done in accordance with 15A NCAC 2B.0259. EEP has indicated in a letter dated June 15, 2009 that they will assume responsibility for satisfying the compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.
4. All clearing of vegetation for purpose of relocating overhead power lines within jurisdictional wetlands shall be performed without the use of mechanized equipment.
5. A copy of this Water Quality Certification, as well as the original 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.
6. All other conditions in the original Water Quality Certification for this project dated February 23, 2009 still apply.



North Carolina Department of Environment and Natural Resources

Division of Water Quality

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Beverly Eaves Perdue
Governor

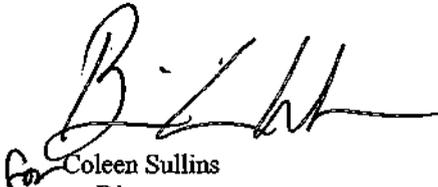
Dee Freeman
Secretary

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA permit.

If this Certification is unacceptable to you have the right to an adjudicatory hearing upon written request within sixty (60) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. If modifications are made to an original Certification, you have the right to an adjudicatory hearing on the modifications upon written request within sixty (60) days following receipt of the Certification. Unless such demands are made, this Certification shall be final and binding.

This the 22nd Day of June 2009

DIVISION OF WATER QUALITY


For Coleen Sullins
Director

WQC No. 3781