




STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

December 1, 2004

MEMORANDUM TO: Mr. Jon G. Nance, P.E.
Division 5 Engineer

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

SUBJECT: Durham County; Division 5; Replace Bridge No. 119 over Prong of Mud
Creek; State Project No. 8.2352901; TIP No. B-3451

Attached is the US Army Corps of Engineers Nationwide Permit No. 23 and No. 33 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. Omar Sultan
Mr. Jay Bennett, P.E.
Mr. David Chang, P.E.
Mr. Randy Garris, P.E.
Mr. Greg Perfetti, P.E.
Mr. Mark Staley
Mr. John F. Sullivan, III, FHWA
Mr. Chris Murray, Division 5 DEO
Ms. Cathy Houser, PE

PROJECT COMMITMENTS

Durham County
SR 1306 (Lemur Lane)
Bridge No. 119 Over Prong of Mud Creek
Federal-Aid Project No. BRSTP-1306(4)
State Project No. 8.2352901
T.I.P. No. B-3451

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

COMMITMENTS DEVELOPED THROUGH PROJECT DEVELOPMENT AND DESIGN

Project Development and Environmental Analysis Branch, Roadway Design, Structure Design, Roadside Environmental and Division Engineer

A 15-foot (4.6-meter) dry land passage on each side of Prong of Mud Creek with sufficient headroom for wildlife movement will be provided.

COMMITMENTS DEVELOPED THROUGH PERMITTING

Project Development and Environmental Analysis Branch

Compensatory mitigation for the unavoidable impacts to 0.185 acre of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated August 5, 2004 from William D. Gilmore, EEP Transition Manager. The EEP will provide 1.85 acre of preservation of riverine wetlands, in the Central Piedmont Eco-region at the Allen Site in Wake 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 0.185 acre of restoration of riverine wetlands in the Cape Fear River basin (Hydrologic Cataloging Unit 03030002) 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 the permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA. Note: This verification does not include full impacts to waters of the United States from any borrow sites, spoil disposal stream diversion, site dewatering, bridge demolition or on-site detours. These impacts would have to be permitted separately if they become necessary.

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action ID: 200021135 200421212

County: Durham

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner: NCDOT; Division of Highways
Attn: Gregory J. Thorpe, Ph.D., Dir., PDEA

Mailing Address: 1548 Mail Service Center
Raleigh, North Carolina 27699

Telephone No.: (919) 715-1456

Authorized Agent:

Mailing Address:

Telephone No.:

Location of property (road name/number, town, etc.): TIP#B-3451; On SR 1306; (Lemur Lane); southeast of Durham, North Carolina

Site Coordinates: 35.99668 °N 78.97054 °W

USGS Quad: Southwest Durham

Waterway: Mud Creek

River Basin: Cape Fear

HUC: 03030002

Description of projects area and activity (see page 2 for a summary of authorized impacts): TIP#B-3451; Discharge of fill material for replacing a bridge with a new bridge on existing location, including riprap bank stabilization, and temporary construction access causeway, as shown in the attached drawings, and subject to the attached special condition.

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

Authorization: Nationwide or Regional General Permit Number(s): 23 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 requirements of the modified nationwide permit. 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.

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 Eric Alsmeyer at telephone (919) 876-8441, ext 23.

Corps Regulatory Official  Date: 11/22/2004 Verification Expiration Date: 11/22/2006

Copy Furnished: EEP
NCDOT, ONE (Carla D'Agnino, by fax)

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 the jurisdictional determination issued on 12/27/2000 (Action ID: 200021135).

Basis of Jurisdictional Determination: The impact area contains stream channels of Mud Creek, a tributary of the Cape Fear River, with indicators of ordinary high-water marks, and wetlands adjacent to the stream.

Corps Regulatory Official *Eric [Signature]* Date: 11/22/2004 Determination Expiration Date: 11/22/2009

Summary of Authorized Impacts and Required Mitigation

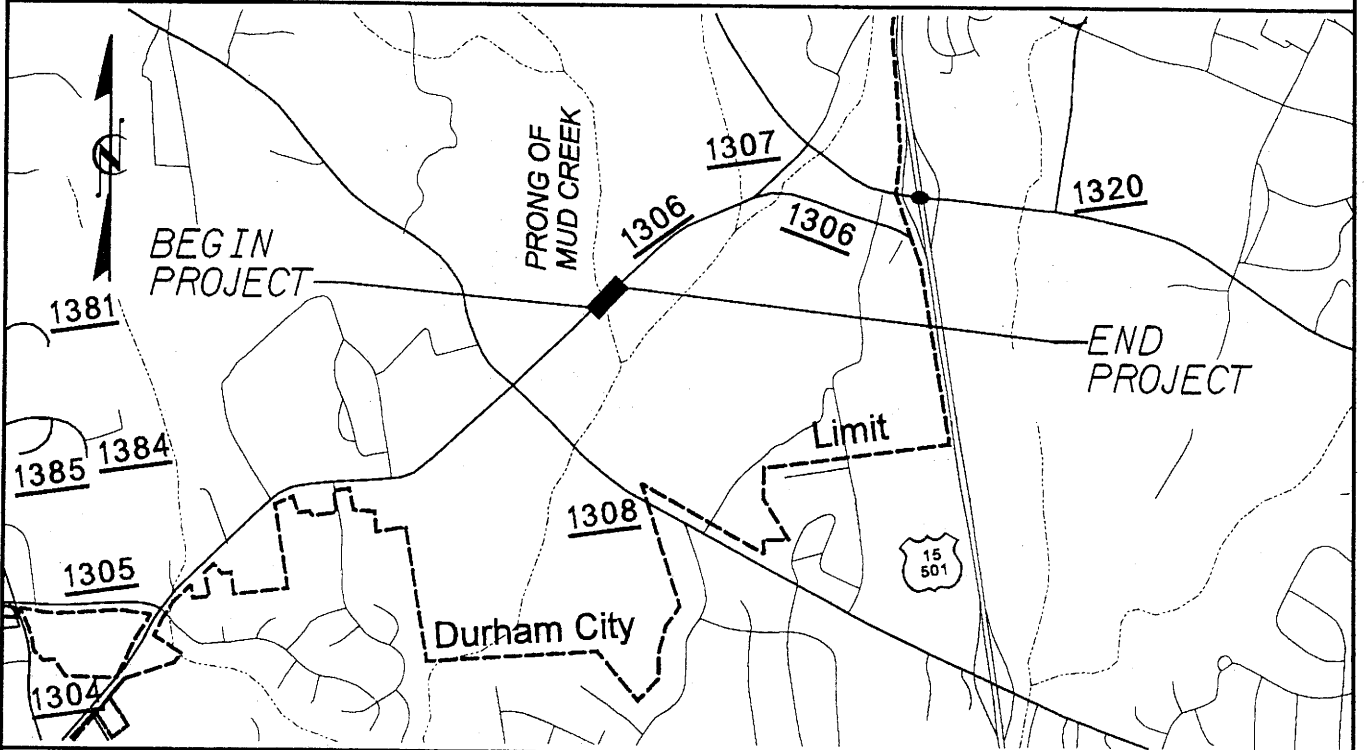
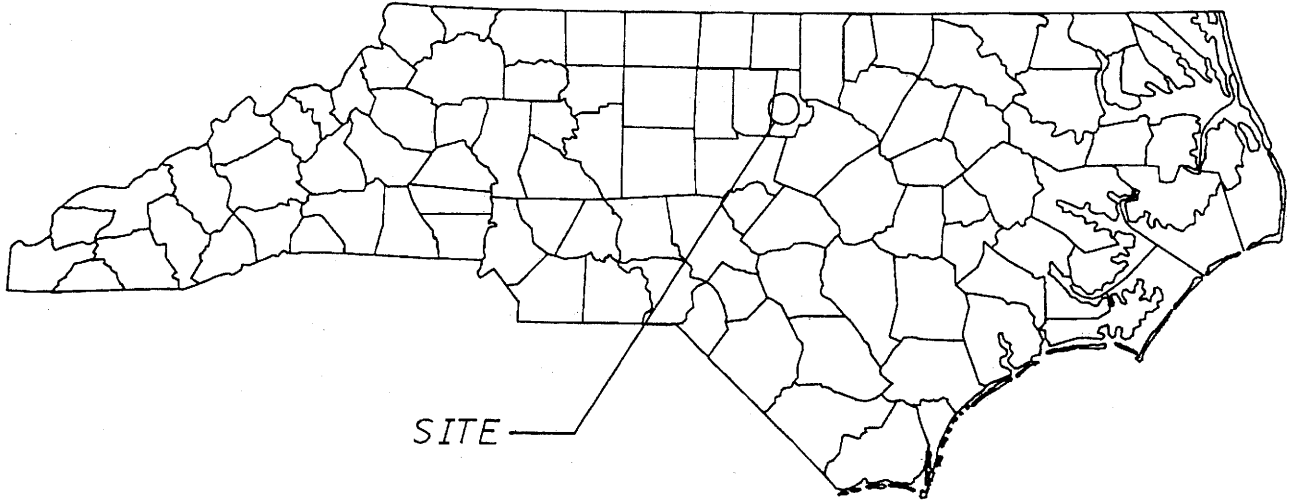
Action ID #	NWP / GP #	Open Water (ac)		Wetland (ac)		Unimportant Stream (lf)		Important Stream (lf)		
		Temporary	Permanent	Temporary	Permanent	Temporary	Permanent	Temporary	Permanent	
200021135	23				0.185					
200421212	33	.003		.014						
Impact Totals		0.003	0	0.014	0.185	0	0	0	0	
Total Loss of Waters of the U.S. (ac)				0.185		Total Loss of Waters of the U.S. (lf)				0
Required Wetland Mitigation (ac)			0		Required Stream Mitigation (lf)			0		

Additional Remarks and/or Special Permit Conditions:

Compensatory mitigation for the unavoidable impacts to 0.185 acre of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated August 5, 2004 from William D. Gilmore, EEP Transition Manager. The EEP will provide 1.85 acres of preservation of riverine wetlands, in the Central Piedmont Eco-Region at the Allen Site in Wake 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 0.185 acre of restoration of riverine wetlands, in the Cape Fear River basin (Hydrologic Cataloging Unit 03030002) 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.

Note: This verification does not include fill impacts to waters of the United States from any borrow sites, spoil disposal, stream diversion, site dewatering, bridge demolition, or on-site detours. These impacts would have to be permitted separately if they become necessary.

NORTH CAROLINA

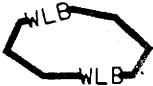


VICINITY MAPS

NCDOT
DIVISION OF HIGHWAYS
DURHAM COUNTY
PROJECT: 8.2352901 (B-3451)
BRIDGE NO. 119
OVER MUD CREEK
ON SR 1306

WETLAND LEGEND


 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

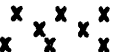
 TEMP. DRAINAGE EASEMENT


 PERMANENT DRAINAGE EASEMENT

 EXIST. ENDANGERED ANIMAL BOUNDARY

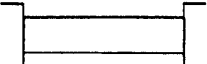
 EXIST. ENDANGERED PLANT BOUNDARY

 WATER SURFACE


 LIVE STAKES


 BOULDER

 CORE FIBER ROLLS

 PROPOSED BRIDGE

 PROPOSED BOX CULVERT

 PROPOSED PIPE CULVERT
 (DASHED LINES DENOTE EXISTING STRUCTURES)
 12"-48" PIPES
 54" PIPES & ABOVE


 SINGLE TREE

 WOODS LINE

 DRAINAGE INLET

 ROOTWAD

 RIP RAP

 ADJACENT PROPERTY OWNER OR PARCEL NUMBER IF AVAILABLE

 PREFORMED SCOUR HOLE WITH LEVEL SPREADER (PSH)

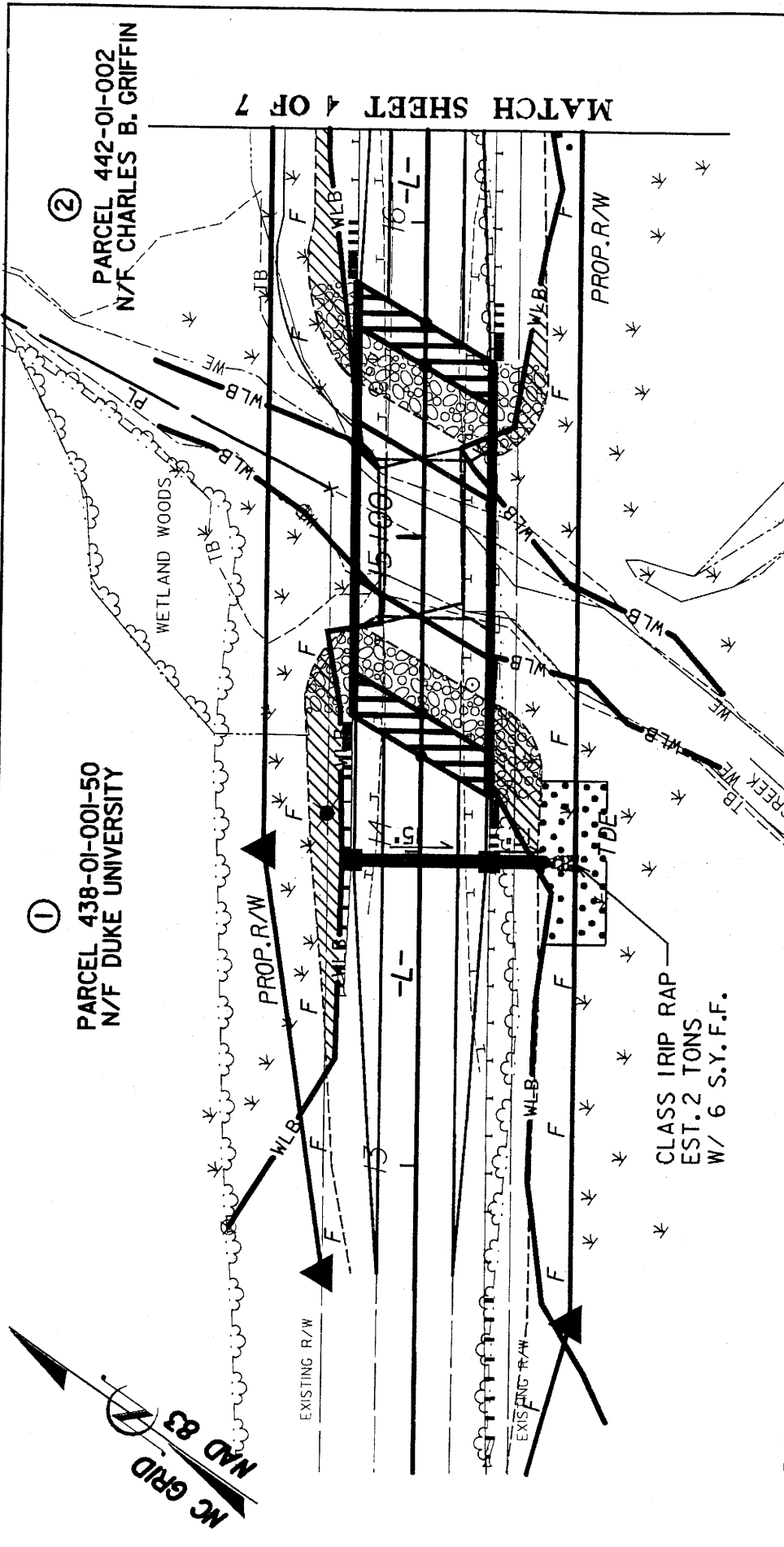
 LEVEL SPREADER (LS)

 GRASS SWALE

N. C. DEPT. OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 DURHAM COUNTY

PROJECT: 8.2352901 (B-3451)

BRIDGE NO. 119
 OVER MUD CREEK
 ON SR 1306



①

PARCEL 438-01-001-50
N/F DUKE UNIVERSITY

②

PARCEL 442-01-002
N/F CHARLES B. GRIFFIN

MATCH SHEET 4 OF 7

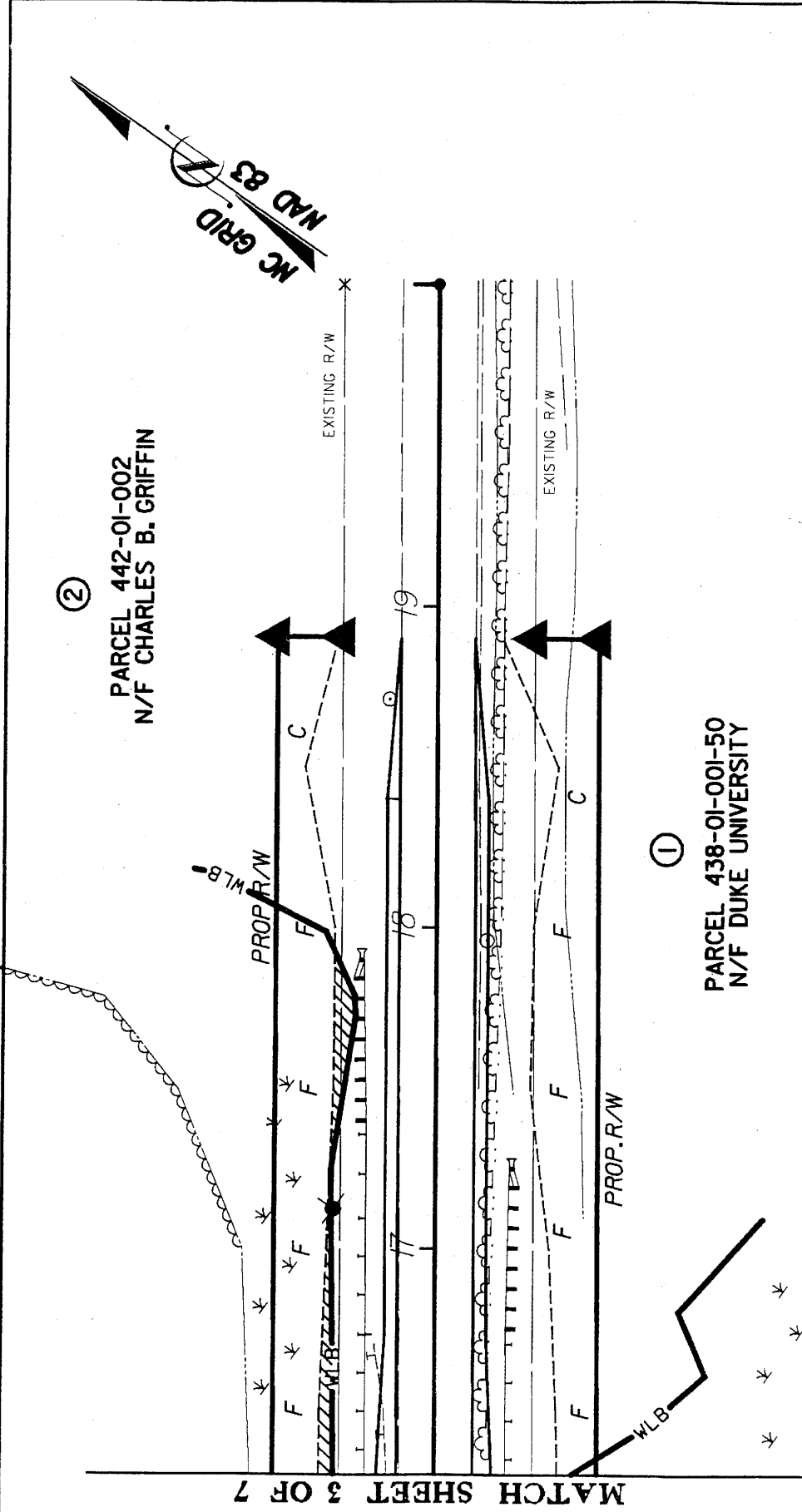
PARCEL 438-01-001-50
N/F DUKE UNIVERSITY

①

PLAN VIEW
SITE 1

-  DENOTES FILL IN WETLAND
-  DENOTES MECHANIZED CLEARING

NCDOT
DIVISION OF HIGHWAYS
DURHAM COUNTY
PROJECT: 8.2552901 (B-3451)
BRIDGE NO. 119
OVER MUD CREEK
ON SR 1306



②

PARCEL 442-01-002
N/F CHARLES B. GRIFFIN

①

PARCEL 438-01-001-50
N/F DUKE UNIVERSITY

MATCH SHEET 3 OF 7

NCDOT

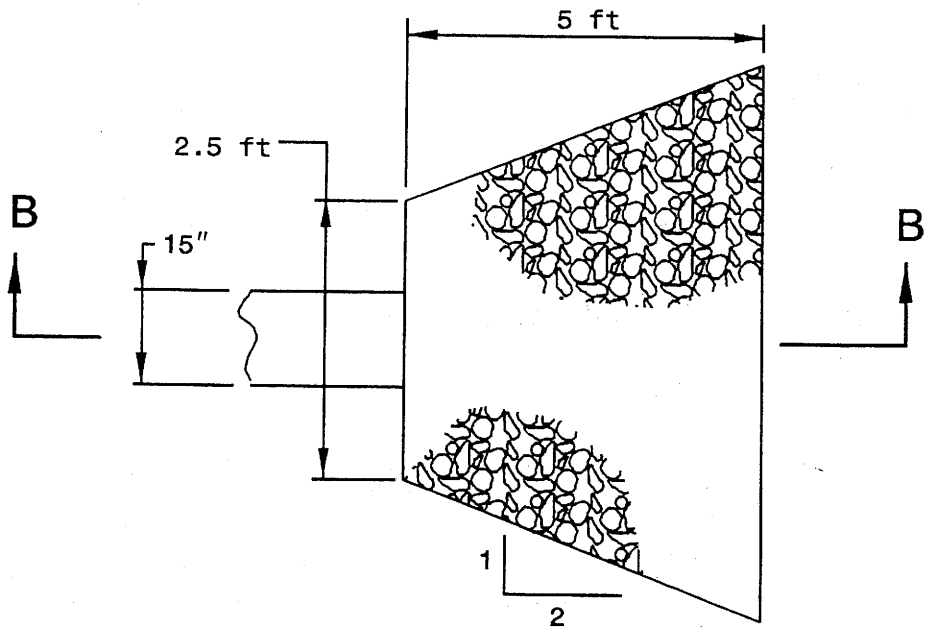
DIVISION OF HIGHWAYS
DURHAM COUNTY

PROJECT: 8.2352901 (B-3451)
BRIDGE NO. 119
OVER MUD CREEK
ON SR 1306

PLAN VIEW
SITE I

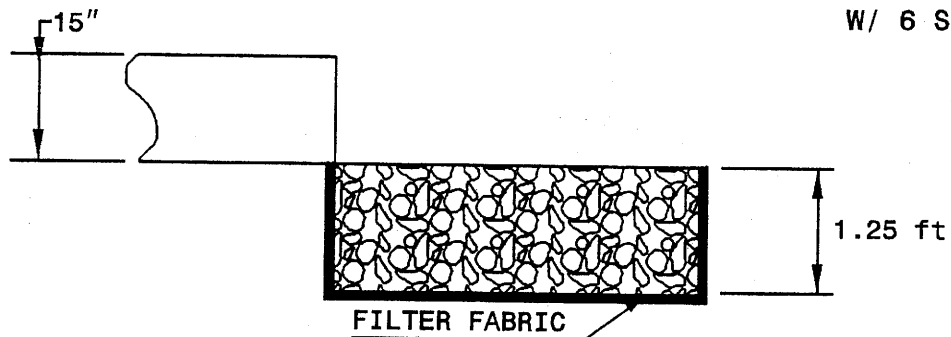
DENOTES FILL IN
WETLAND





PLAN

CLASS I RIP RAP
EST 2 TONS
W/ 6 S.Y. F.F.

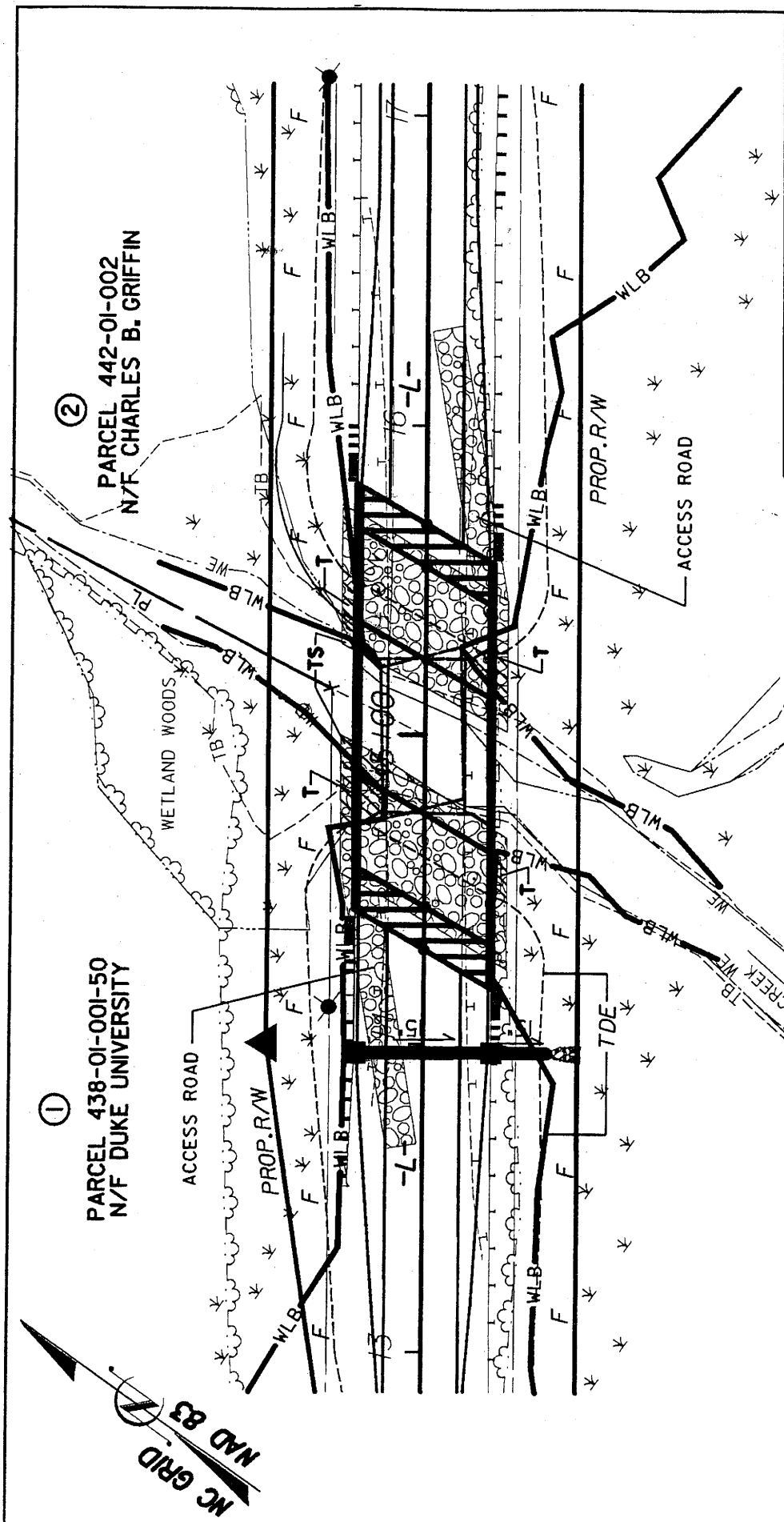


SECTION B-B

PIPE OUTLET WITHOUT DITCH

NCDOT
 DIVISION OF HIGHWAYS
 DURHAM COUNTY
 PROJECT: 8.2352901 (B-3451)
 BRIDGE NO. 119
 OVER MUD CREEK
 ON SR 1306

SHEET 5 OF 10 5/23/03

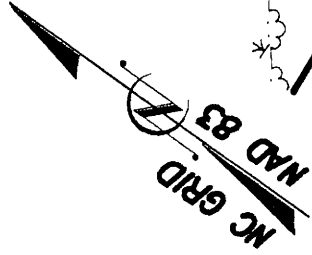


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PARCEL 438-01-001-50
N/F DUKE UNIVERSITY



②

PARCEL 442-01-002
N/F CHARLES B. GRIFFIN



PARCEL 438-01-001-50
N/F DUKE UNIVERSITY

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-  TS
-  T
- FILL IN SURFACE WATER
- DENOTES TEMPORARY FILL IN WETLAND

CAUSEWAY SITE 1

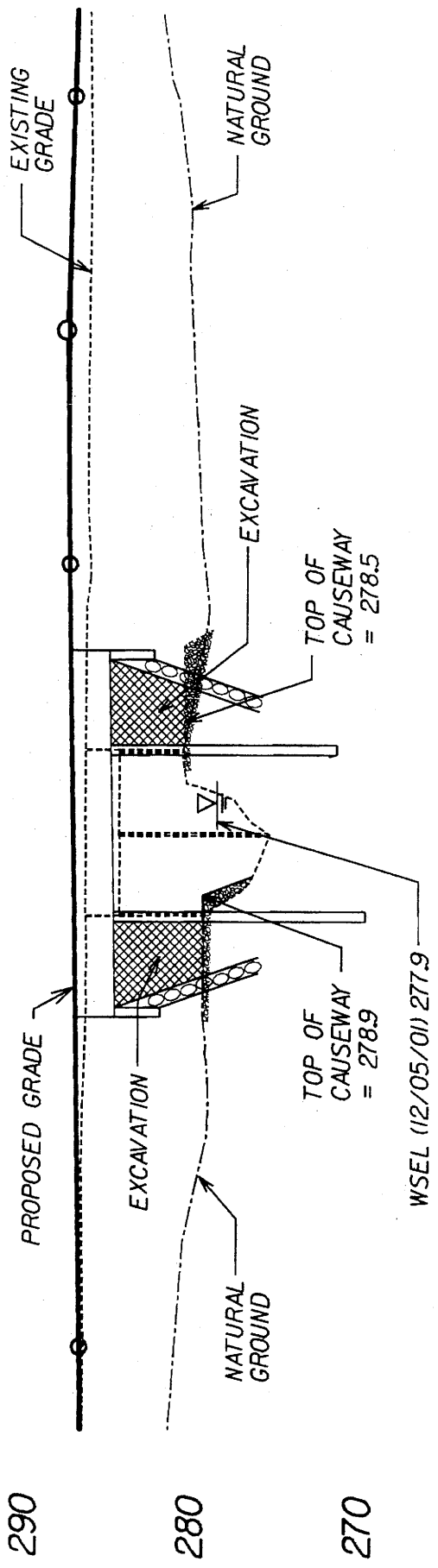
NCDOT
DIVISION OF HIGHWAYS
DURHAM COUNTY
PROJECT: 8.2352901 (B-3451)
BRIDGE NO. 119
OVER MUD CREEK
ON SR 1306

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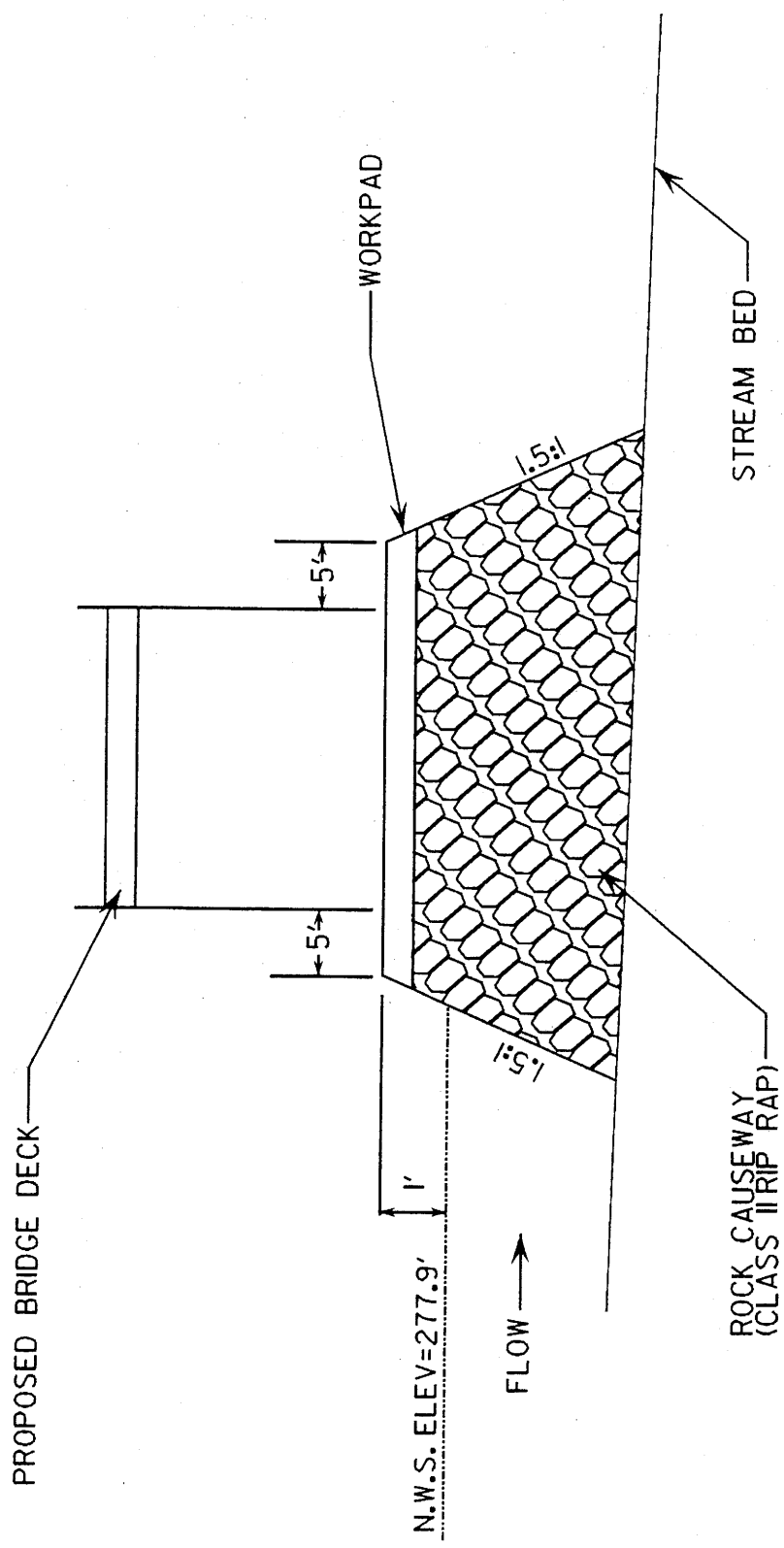
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NCDOT
 DIVISION OF HIGHWAYS
 DURHAM COUNTY
 PROJECT: 8.2352901 (B-3451)
 BRIDGE NO. 119
 OVER MUD CREEK
 ON SR 1306

**PROFILE VIEW
 SITE 1**

CAUSEWAY DETAIL (NOT TO SCALE)



QUANTITIES OF ESTIMATES

VOLUME OF CLASS II RIP RAP= 480 yds³
 AREA OF CLASS II RIP RAP= 0.15 acres
 Estimate 650 Tons Class II Rip Rap

NCDOT
 DIVISION OF HIGHWAYS
 DURHAM COUNTY
 PROJECT: 8.2352901 (B-3451)
 BRIDGE NO. 119
 OVER MUD CREEK
 ON SR 1306

PROPERTY OWNERS
NAMES AND ADDRESSES

PARCEL NO.	NAMES	ADDRESSES
438-01-001-50	DUKE UNIVERSITY	ATTN: JUDD EDERBERN 402 OREGON STREET DURHAM, NC 27705
442-01-002	CHARLES B. GRIFFIN	3912 ERWIN ROAD DURHAM, CN 27705

NCDOT
DIVISION OF HIGHWAYS
DURHAM COUNTY
PROJECT: 8.2352901 (B-3451)
BRIDGE NO.73
OVER MUD CREEK
ON SR 1306

SHEET 9 OF 10 5/23/03

IMPACT SUMMARY

Site No.	Station (From/To)	Structure Size	WETLAND IMPACTS				SURFACE WATER IMPACTS					BUFFER IMPACTS					
			Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation In Wetlands (ac)	Mechanized Cleaning (Method II) (ac)	Fill In SW (Natural) (ac)	Fill In SW (Pond) (ac)	Temp. Fill In SW (ac)	Existing Channel Impacted (ft)	Relocated Channel (ft)	Zone 1 (ac)	Zone 2 (ac)	Mech Clear (ac)			
1	12+55 TO 16+30 -L- RT	N/A	0.022	0.006		0.024											
1	13+15 TO 16+30 -L- LT	N/A	0.039	0.008				0.003									
1	16+30 TO 17+75 -L- LT	N/A	0.100														
TOTALS:			0.161	0.014	0	0.024	0	0	0	0	0.003	0	0	0	0	0	0

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

DURHAM COUNTY
PROJECT: 8.2352901 (B-3451)

BRIDGE NO. 119 OVER MUD CREEK ON SR 1306

SHEET 10 OF 10

05/23/03

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;

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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