




STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

October 13, 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: Wake County; Division 5; Replace Bridge No. 273 on SR 1006 over  
Middle Creek; Federal Project No. BRZ-1006(13); State Project No.  
8.2407501; TIP Project No. B-3521.

Attached is the modification of the 404 Nationwide Permit Numbers 23 and 33 and the Neuse Buffer Certification.

PSH/gyb

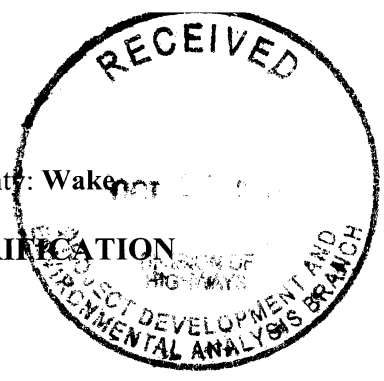
Attachment

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



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**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT**



Action ID: **200120071**

County: **Wake**

**GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION**

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

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

Telephone No.: **(919) 715-1428**

Authorized Agent:

Mailing Address:

Telephone No.:

Location of property (road name/number, town, etc.): **TIP B-3521; On SR 1006; (Old Stage Road); east of Fuquay-Varina, North Carolina**

Site Coordinates: **35.14029 °N 77.05551 °W**

USGS Quad: **Angier**

Waterway: **Middle Creek**

River Basin: **Neuse**

HUC: **03020201**

Description of projects area and activity (see page 2 for a summary of authorized impacts): **Discharge of fill material for construction of the replacement of Bridge No. 273 with a new bridge at the existing location, including an on-site detour, temporary workpad, and TV cable relocation, as shown in the attached drawings, and subject to the attached special condition. Note: This authorization replaces the authorization dated 4/30/2004 (AID 200120071).**

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.

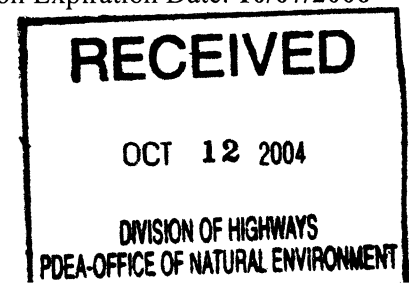
This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

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 *[Signature]*

Date: **10/07/2004** Verification Expiration Date: **10/07/2006**

Copy Furnished: **(EEP)**  
**NCDOT, Div. 5 (Chris Murray) 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 (Action ID: ).

Basis of Jurisdictional Determination: **The impact area contains a stream channel of Middle Creek, a tributary of the Neuse River, with indicators of ordinary high water marks, and wetlands adjacent to the stream.**

Corps Regulatory Official \_\_\_\_\_ Date: **10/07/2004** Determination Expiration Date: **10/07/2009**

#### 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	
200120071	23			0.20	0.03					
	33	0.004		0.07						
Impact Totals		0.004	0	0.27	0.03	0	0	0	0	
Total Loss of Waters of the U.S. (ac)				0		Total Loss of Waters of the U.S. (lf)				0
Required Wetland Mitigation (ac)		0.62	In-Lieu/EEP	Required Stream Mitigation (lf)		0				

Additional Remarks and/or Special Permit Conditions:

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

**NC-EEP WETLAND MITIGATION:** Compensatory mitigation for the 0.31 acre of wetland impacts (permanent fill and mechanized clearing) associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in letter from William D. Gilmore, dated April 30, 2004. The EEP will provide 2.3 acres of preservation of riverine wetlands, in the Central Piedmont Eco-Region, at the Allen (Franklin County) Mitigation Site, which has been acquired and protected by the EEP, and 0.16 acre of resoration of riverine wetlands in Cataloging Unit 03020201 of the Neuse River Basin. Pursuant to the EEP Memorandum of Agreement (MOA), and all provisions therein, between the State of North Carolina and the United States Army Corps of Engineers signed July 22, 2003, the EEP will provide a minimum of 0.31 acre of restoration of riverine wetlands in Cataloging Unit 03020201 by July 22, 2005, and half of the proposed preservation mitigation would be available at that time for mitigation for other impacts.



**WILMINGTON DISTRICT  
POST-CONSTRUCTION COMPLIANCE FORM**

**Action ID Number: 200120071**

**County: Wake**

**Permittee: NCDOT; Division of Highways    TIP B-3521; On SR 1006; (Old Stage Road); east of Fuquay-Varina, North Carolina**

**Date Permit Issued: 10/07/2004**

**Project Manager: Eric Alsmeyer**

**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  
Raleigh Regulatory Field Office  
6508 Falls Of The Neuse Road  
Suite 120  
Raleigh, North Carolina 27615**

**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**





**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: NCDOT; Division of Highways Attn: Gregory J. Thorpe, Ph.D., Director, PDEA Branch	File Number: 200120071	Date: 10/07/2004
Attached is:		See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
<input type="checkbox"/> PERMIT DENIAL	C	
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION	D	
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.



**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Eric Alsmeyer  
Raleigh Regulatory Field Office  
US Army Corps of Engineers  
6508 Falls of the Neuse Road, Suite 120  
Raleigh, North Carolina 27615

If you only have questions regarding the appeal process you may also contact:

Mr. Arthur Middleton, Administrative Appeal Review  
Officer  
CESAD-ET-CO-R  
U.S. Army Corps of Engineers, South Atlantic Division  
60 Forsyth Street, Room 9M15  
Atlanta, Georgia 30303-8801

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:

**DIVISION ENGINEER:**

**Commander**  
**U.S. Army Engineer Division, South Atlantic**  
**60 Forsyth Street, Room 9M15**  
**Atlanta, Georgia 30303-3490**





NATIONWIDE PERMIT 23  
DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS  
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS  
FEDERAL REGISTER  
AUTHORIZED MARCH 18, 2002

**Approved Categorical Exclusions:** Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW-OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Before to approval for purposes of this nationwide permit of any agency's categorical exclusions, the Chief of Engineers will solicit public comment. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this nationwide permit. (Sections 10 and 404)

## NATIONWIDE PERMIT GENERAL CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a 'study river' for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWP's 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWP's).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

#### 11. Endangered Species.

a. No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWP's.

b. Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the

USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.noaa.gov/protres/overview/es.html> respectively.

12. Historic Properties. No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR, 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

### 13. Notification.

a. Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

1. Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

2. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b. Contents of Notification: The notification must be in writing and include the



following information:

1. Name, address and telephone numbers of the prospective permittee;
2. Location of the proposed project;
3. Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
4. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
9. For NWP 29 (Single-Family Housing), the PCN must also include:
  - i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
  - ii. A statement that the single-family housing activity is for a personal residence of the permittee;

iii. A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring  $\frac{1}{4}$ -acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than  $\frac{1}{4}$ -acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

ii. A delineation of any affected special aquatic sites, including wetlands; and,

iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the

relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP

and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either:

1. That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit;
2. that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or
3. that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

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

For activities requiring notification to the District Engineer that result in the loss of greater than  $\frac{1}{2}$ -acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of

NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. **Wetland Delineations:** Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (1/4\)-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. **Compliance Certification.** Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

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

16. **Water Supply Intakes.** No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example,  $\frac{1}{4}$ -acre of wetlands cannot be created to change a  $\frac{3}{4}$ -acre loss of wetlands to a  $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However,  $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a  $\frac{1}{2}$ -acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

f. Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment or, a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

h. Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

a. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.



a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).<sup>3</sup>

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

### **FURTHER INFORMATION**

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

### **DEFINITIONS**

Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures

implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or nonstructural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has *flowing* water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as "floodway fringe").

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

Non-tidal Wetland: An area that, during a year with normal patterns of precipitation has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term “open water” includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

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

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

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

*Single and Complete Project:* The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the “single and complete project” (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations; each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.

*Stormwater Management:* Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

*Stormwater Management Facilities:* Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

*Stream Channelization:* The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

*Tidal Wetland:* A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

*Vegetated Buffer:* A vegetated upland or wetland area next to rivers, streams, lakes, or other

open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

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

*Waterbody:* A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

## **FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT**

1. Waters Excluded from NWP or Subject to Additional Notification Requirements:
  - a. The Corps identified waters that will be excluded from use of this NWP. These waters are:
    1. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.
    2. Discharges into Waters of the United States designated as sturgeon spawning areas are prohibited during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).
  - b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:
    1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the

applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are “Outstanding Resource Waters” (ORW) and “High Quality Waters” (HQW) (as defined by the North Carolina Division of Water Quality), or “Inland Primary Nursery Areas” (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or “Primary Nursery Areas” (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a “Mountain or Piedmont Bog” of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

Note: The following wetland community types identified in the N.C. Natural Heritage Program document, “Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

Mountain Bogs

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

Piedmont Bogs

Upland Depression Swamp Forest

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the

location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

Alleghany	Ashe	Avery	Yancey
Buncombe	Burke	Caldwell	Wilkes
Cherokee	Clay	Graham	Swain
Haywood	Henderson	Jackson	Surry
Macon	Madison	McDowell	Stokes
Mitchell	Polk	Rutherford	
Transylvania	Watauga		

6. Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

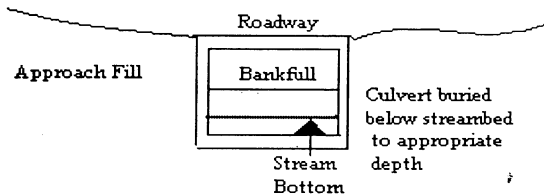
a. Individual or multiple NWP's may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWP's 13, 27 and 39 have specific reporting requirements.]

c. For all Nationwide Permits which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWP's that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms. All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, the dimension, pattern, and profile of the stream, (above and below a pipe or culvert), should not be modified by widening the stream channel or by reducing the depth of the stream. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional Condition would result in more adverse impacts to the aquatic environment.

**NORTH CAROLINA DIVISION OF WATER QUALITY**  
**GENERAL CERTIFICATION CONDITIONS**  
**GC3361**

1. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires notification to the Division of Water Quality. Two copies shall be submitted to DWQ at the time of notification in accordance with 15A NCAC 2H .0501(a).

Written concurrence from DWQ is not required unless any standard conditions of this Certification cannot be met;

2. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design,



installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;

3. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. In addition, buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "allowable with mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules. A determination of buffer, wetland and stream mitigation requirements shall be made for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur. The mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the traveling public;

4. Compensatory stream mitigation shall be required at a 1:1 ratio for all perennial and intermittent stream impacts equal to or exceeding 150 feet and that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II;

5. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;

6. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;

7. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;

8. Impacts to any stream length in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;

9. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

10. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide and Regional General Permits, whichever is sooner;

11. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

**NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT**  
**STATE CONSISTENCY**

Consistent.

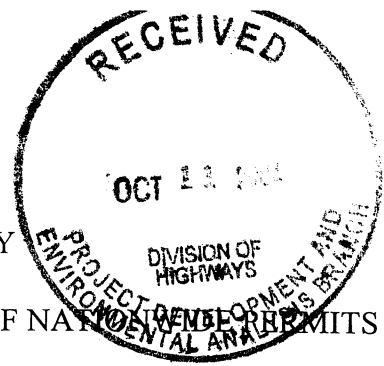
Citations:

2002 Nationwide Permits - Federal Register Notice 15 Jan 2002

2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002

2002 Regional Conditions – Authorized 17 May 2002

**NATIONWIDE PERMIT 33**  
**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS**  
**FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONAL PERMITS**  
**FEDERAL REGISTER**  
**AUTHORIZED MARCH 18, 2002**



**Temporary Construction, Access and Dewatering:** Temporary structures, work and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites; provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard (USCG), or for other construction activities not subject to the Corps or USCG regulations. Appropriate measures must be taken to maintain normal downstream flows and to minimize flooding. Fill must be of materials, and placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if it is determined by the District Engineer that it will not cause more than minimal adverse effects on aquatic resources. Temporary fill must be entirely removed to upland areas, or dredged material returned to its original location, following completion of the construction activity, and the affected areas must be restored to the pre-project conditions. Cofferdams cannot be used to dewater wetlands or other aquatic areas so as to change their use. Structures left in place after cofferdams are removed require a section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322). The permittee must notify the District Engineer in accordance with the "Notification" general condition. The notification must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources. The District Engineer will add special conditions, where necessary, to ensure environmental adverse effects is minimal. Such conditions may include: Limiting the temporary work to the minimum necessary; requiring seasonal restrictions; modifying the restoration plan; and requiring alternative construction methods (e.g., construction mats in wetlands where practicable.). (Sections 10 and 404)

## NATIONWIDE PERMIT GENERAL CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a 'study river' for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWP's 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWP's).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

#### 11. Endangered Species.

a. No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWP's.

b. Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of

the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.noaa.gov/protres/overview/es.html> respectively.

12. Historic Properties. No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

### 13. Notification.

a. Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

1. Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

2. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b. Contents of Notification: The notification must be in writing and include the following information:

1. Name, address and telephone numbers of the prospective permittee;
2. Location of the proposed project;
3. Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);
4. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
9. For NWP 29 (Single-Family Housing), the PCN must also include:
  - i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
  - ii. A statement that the single-family housing activity is for a personal residence of the permittee;
  - iii. A description of the entire parcel, including its size, and a delineation of

wetlands. For the purpose of this NWP, parcels of land measuring  $\frac{1}{4}$ -acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than  $\frac{1}{4}$ -acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

ii. A delineation of any affected special aquatic sites, including wetlands; and,

iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in



non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation,

the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either:

1. That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit;
2. that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or
3. that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

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

For activities requiring notification to the District Engineer that result in the loss of greater than  $\frac{1}{2}$ -acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted

to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (1/4\)-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

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

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site).

b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example,  $\frac{1}{4}$ -acre of wetlands cannot be created to change a  $\frac{3}{4}$ -acre loss of wetlands to a  $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However,  $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a  $\frac{1}{2}$ -acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

f. Compensatory mitigation plans for projects in or near streams or other open waters

will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment or, a watershed basis. In cases where vegetated buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

h. Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows.

While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

a. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material

into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWP's 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters: Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWP's 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date may be requested. This request must be submitted at least one month before the previously approved completion date.

### **FURTHER INFORMATION**

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

### **DEFINITIONS**

*Best Management Practices (BMPs)*: BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or nonstructural. A BMP policy may

affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

Ephemeral Stream: An ephemeral stream has *flowing* water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as “floodway fringe”).

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade



fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

*Non-tidal Wetland:* An area that, during a year with normal patterns of precipitation has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term “open water” includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

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

*Permanent Above-grade Fill:* A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

*Preservation:* The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

*Restoration:* Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

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

Single and Complete Project: The term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the “single and complete project” (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations; each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies.

Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment

and maintenance of vegetated buffers as a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

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

Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

## **FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT**

### 1. Waters Excluded from NWP or Subject to Additional Notification Requirements:

a. The Corps identified waters that will be excluded from use of this NWP. These waters are:

1. Discharges into Waters of the United States designated by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning area are prohibited during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

2. Discharges into Waters of the United States designated as sturgeon spawning areas are prohibited during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).

b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:

1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are "Outstanding Resource Waters" (ORW) and "High Quality Waters" (HQW) (as defined by the North Carolina Division of Water Quality), or "Inland Primary Nursery Areas" (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or "Primary Nursery Areas" (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC. 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a “Mountain or Piedmont Bog” of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

Note: The following wetland community types identified in the N.C. Natural Heritage Program document, “Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

Mountain Bogs

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

Piedmont Bogs

Upland Depression Swamp Forest

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

Alleghany          Ashe                  Avery                  Yancey

Buncombe	Burke	Caldwell	Wilkes
Cherokee	Clay	Graham	Swain
Haywood	Henderson	Jackson	Surry
Macon	Madison	McDowell	Stokes
Mitchell	Polk	Rutherford	
Transylvania	Watauga		

6. Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

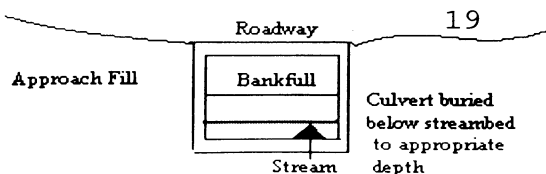
a. Individual or multiple NWP's may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWP's 13, 27 and 39 have specific reporting requirements.]

c. For all Nationwide Permits which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWP's that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms. All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, the dimension, pattern, and profile of the stream, (above and below a pipe or culvert), should not be modified by widening the stream channel or by reducing the depth of the stream. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional Condition would result in more adverse impacts to the aquatic environment.

3. Additional Regional Conditions Applicable to this Specific Nationwide Permit.

The required restoration plan must include a timetable for restoration activities.

**NORTH CAROLINA DIVISION OF WATER QUALITY**  
**GENERAL CERTIFICATION CONDITIONS**  
**GC3366**

1. These activities do not require written concurrence from the Division of Water Quality as long as they comply with all conditions of this General Certification. If any condition in this Certification cannot be met, application to and written concurrence from DWQ are required. Also, Condition No. 2 is applicable to all streams in basins with riparian area protection rules;
2. Impacts to any stream length in the Neuse, Tar-Pamlico and Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices;
3. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;

4. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
5. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;
6. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in aggradation, degradation or significant changes in hydrology of streams or wetlands;
7. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
8. All temporary fill shall be removed to the original grade after construction is complete and the site shall be stabilized to prevent erosion;
9. Pipes shall be installed under the road or causeway in all streams to carry at least the 25 year storm event as outlined in the most recent edition of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" so as not to restrict stream flow during use of this Certification;
10. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;
11. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
12. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits, whichever is sooner;

13. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

**NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT**  
**STATE CONSISTENCY**

Consistent.

Citations:

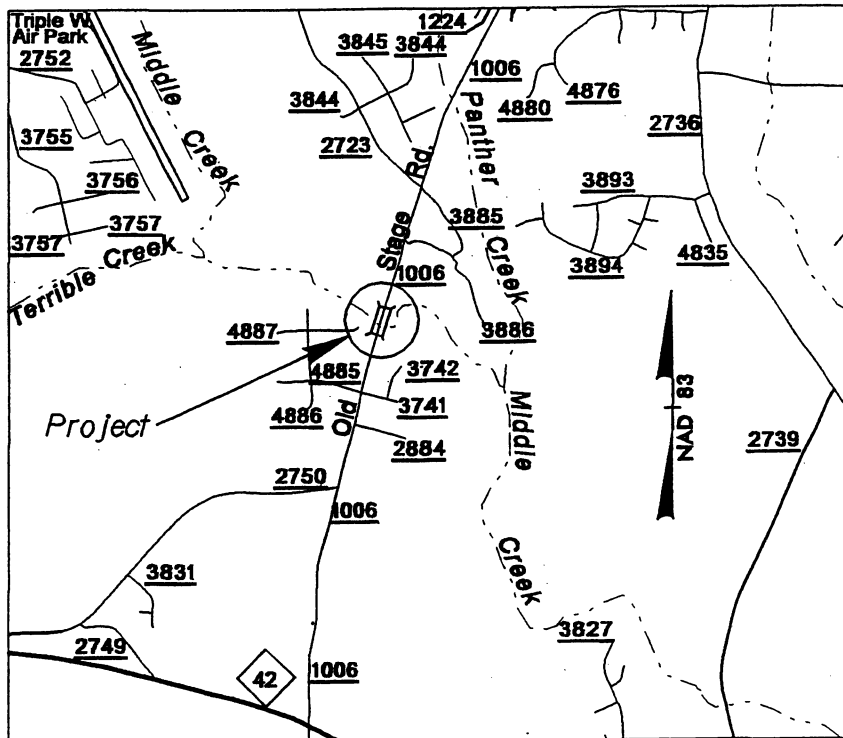
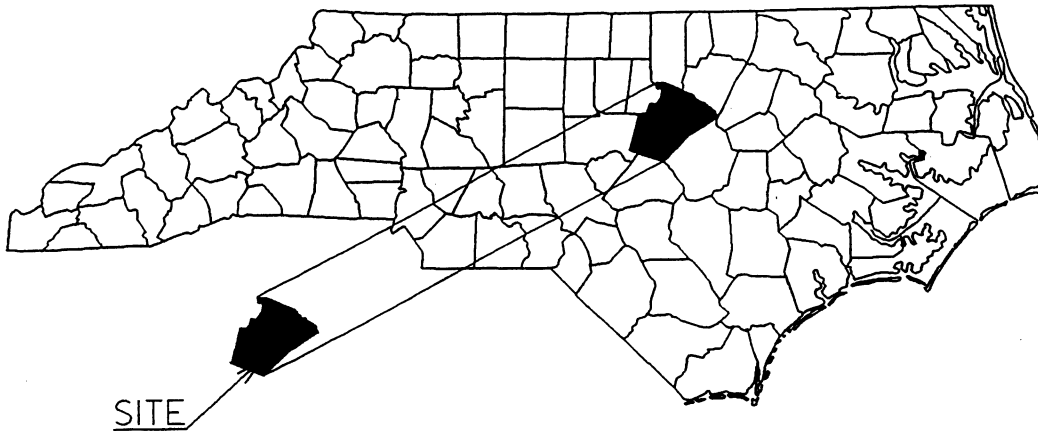
2002 Nationwide Permits - Federal Register Notice 15 Jan 2002

2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002

2002 Regional Conditions – Authorized 17 May 2002



# NORTH CAROLINA



## WETLAND IMPACT VICINITY MAPS

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

PROJECT: 8.2407501 (B-3521)

SR 1006 (OLD STAGE ROAD)

SHEET 1 OF 6



GRASS SWALE DATA-14+00 TO 16+00LT-L-

DA=1.24gc	MINIMUM LENGTH OF SWALE=124 ft
SWALE LENGTH PROVIDED=200ft	
LONGITUDINAL SLOPE= 4% SIDE SLOPES =3:1	
Q2=2.3cfs	Q10= 3.0cfs
V2= 1.7ft/s	V10= 1.9ft/s
D2= 0.7ft	D10= 0.7ft

GRASS SWALE DATA-17+44 TO 20+40LT-L-

DA= .52gc	MINIMUM LENGTH OF SWALE= 52ft
SWALE LENGTH PROVIDED=296FT	
LONGITUDINAL SLOPE= .2% SIDE SLOPES =3:1	
Q2= 1.0cfs	Q10= 1.3cfs
V2= .26ft/s	V10= .30ft/s
D2= .9ft	D10= .9ft

GRASS SWALE DATA-13+50 TO 14+00LT-L-

DA=0.42 gc	MINIMUM LENGTH OF SWALE= 42 ft
SWALE LENGTH PROVIDED=50 ft	
LONGITUDINAL SLOPE= 4% SIDE SLOPES >/=3:1	
Q2=0.9 cfs	Q10= 1.1cfs
V2=0.8 ft/s	V10= 1.0 ft/s
D2=0.3 ft	D10= 0.3 ft

GRASS SWALE DATA-13+00 TO 13+59RT-L-

DA=0.17gc	MINIMUM LENGTH OF SWALE= 17 ft
SWALE LENGTH PROVIDED=59 ft	
LONGITUDINAL SLOPE= 4% SIDE SLOPES >/=3:1	
Q2=0.4 cfs	Q10= 0.5 cfs
V2=0.5 ft/s	V10=0.6 ft/s
D2=0.3 ft	D10= 0.3 ft

GRASS SWALE DATA-14+65 TO 15+00RT-L-

DA=0.34 gc	MINIMUM LENGTH OF SWALE= 35 ft
SWALE LENGTH PROVIDED=35 ft	
LONGITUDINAL SLOPE= 4% SIDE SLOPES >/=3:1	
Q2=0.7 cfs	Q10= 0.9 cfs
V2=0.8 ft/s	V10= 0.9 ft/s
D2=0.3 ft	D10= 0.3 ft

## SWALE DATA

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

PROJECT: 8.2407501 (B-3521)

SR 1006 (OLD STAGE ROAD)



WETLAND PERMIT IMPACT SUMMARY														
Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS				SURFACE WATER IMPACTS							
			Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation In Wetlands (ac)	Mechanized Clearing (Method III) (ac)	Fill In SW (Natural) (ac)	Fill In SW (Pond) (ac)	Temp. Fill In SW (ac)	Existing Channel Impacted (ft)	Natural Stream Design (ft)			
1	18+82 TO 22+25RT-L-	BRIDGE APPROACH FILL	0.009			0.133								
2	21+49 TO 22+60L-T-L-	BRIDGE APPROACH FILL	0.023			0.022								
3	16+27 TO 16+61RT-L-	BRIDGE APPROACH				0.007								
4	*21+40 TO 22+84LT-Det-	DETOUR APPROACH FILL		0.068		0.038								
		WORK PAD-L-								0.004				
TOTALS:			0.03	0.07	0	0.20	0	0	0	0.004		0		0

\*Note: The Mechanized Area For Site 2 Above Is Also Included In The Detour Temporary Fill In Wetlands. An Overlap Exists.

NC DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 WAKE COUNTY  
 PROJECT 8.2407501 B-3521  
 SHEET 6 OF 6 Revised: 6/24/2004



## BUFFER IMPACTS SUMMARY

SITE NO.		STRUCTURE SIZE / TYPE	STATION (FROM/TO)	IMPACT						BUFFER REPLACEMENT			
				TYPE		ALLOWABLE		MITIGABLE		TOTAL (ft <sup>2</sup> )	ZONE 1 (ft <sup>2</sup> )	ZONE 2 (ft <sup>2</sup> )	
				ROAD CROSSING	PARALLEL IMPACT	ZONE 1 (ft <sup>2</sup> )	ZONE 2 (ft <sup>2</sup> )	TOTAL (ft <sup>2</sup> )	ZONE 1 (ft <sup>2</sup> )				ZONE 2 (ft <sup>2</sup> )
1	Bridge	17+08-L-	X			9264	5259			14523			
2	*Detour Bridge	17+12.5-Det-	X			2734	1244			3978			
<b>TOTAL:</b>							11998	6503		18501			

\*Note: BZ1 Impact for PDE (SW Side Beyond R/W) Is Included In Site 1.

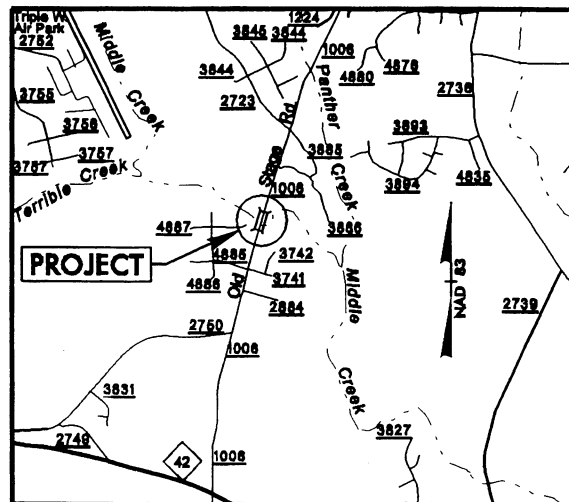




TIP PROJECT: B-3521

CONTRACT: C200806

See Sheet 1-A For Index of Sheets  
See Sheet 1-B For Conventional Symbols



VICINITY MAP

STATE OF NORTH CAROLINA  
DIVISION OF HIGHWAYS

**WAKE COUNTY**

LOCATION: BRIDGE NO. 273 OVER MIDDLE CREEK ON SR 1006

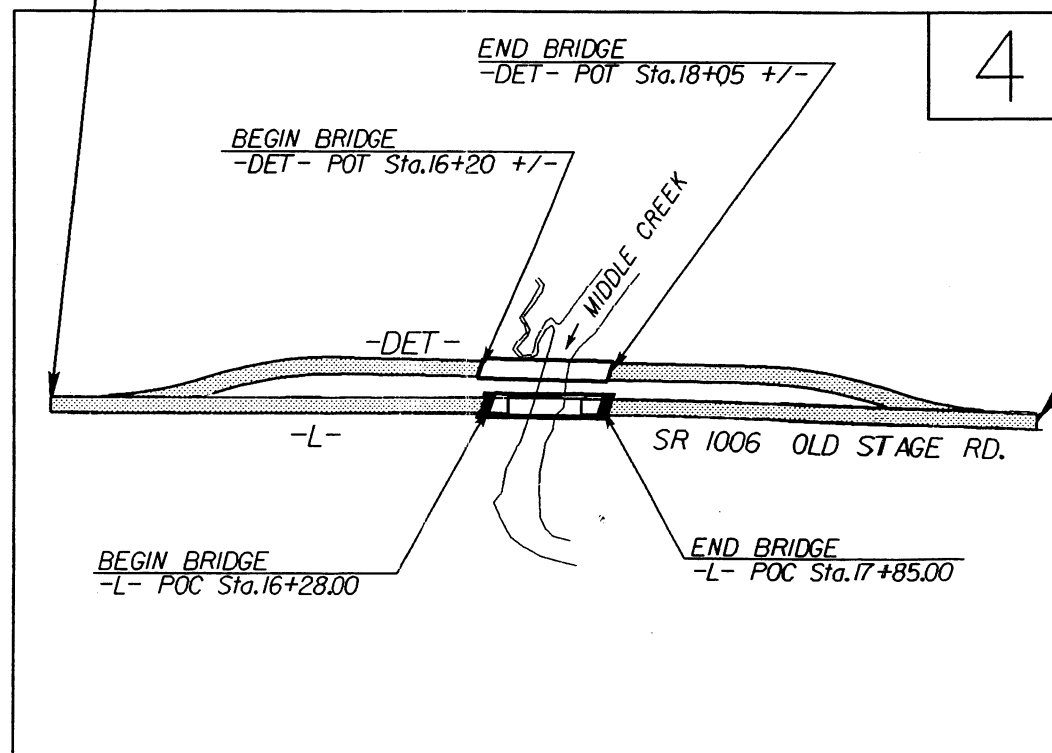
TYPE OF WORK: GRADING, PAVING, STRUCTURES, AND DRAINAGE

STATE	STATE PROJECT REFERENCE NO.	SHEET NO.	TOTAL SHEETS
N.C.	B-3521	1	
STATE PROJ. NO.	P.L. PROJ. NO.	DESCRIPTION	
33130.1.1	BRZ-1006(13)	PE	
33130.2.2	BRZ-1006(13)	R/W, UTIL.	
33130.3.1	BRZ-1006(21)	CONSTR.	



STA. 10 + 00.00 -L- BEGIN TIP PROJECT B-3521

TO FUQUAY-VARINA ←



STA. 24 + 00.00 -L- END TIP PROJECT B-3521

→ TO RALEIGH

**RECEIVED**

JUL 14 2004

RALEIGH REGULATORY FIELD OFFICE

GRAPHIC SCALES



DESIGN DATA

ADT 2004 = 4020  
ADT 2025 = 8300  
DHV = 10 %  
D = 60 %  
T = 3 % \*  
V = 50 MPH  
V (DETOUR) = 40 MPH  
\* TTST 1 % DUAL 2 %

PROJECT LENGTH

LENGTH ROADWAY TIP PROJECT B-3521 = 0.235 mi  
LENGTH STRUCTURE TIP PROJECT B-3521 = 0.030 mi  
TOTAL LENGTH TIP PROJECT B-3521 = 0.265 mi

Prepared in the Office of:  
**DIVISION OF HIGHWAYS**

1000 Birch Ridge Dr.  
Raleigh, NC 27610

2002 STANDARD SPECIFICATIONS

RIGHT OF WAY DATE:  
SEPTEMBER 30, 2002

LETTING DATE:  
JUNE 15, 2004

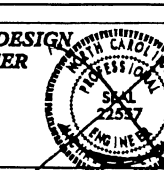
ROGER D. THOMAS, P.E.  
PROJECT ENGINEER

MICHAEL W. LITTLE, P.E.  
PROJECT DESIGN ENGINEER

HYDRAULICS ENGINEER

SIGNATURE: \_\_\_\_\_ P.E.  
ROADWAY DESIGN ENGINEER

SIGNATURE: \_\_\_\_\_



DIVISION OF HIGHWAYS  
STATE OF NORTH CAROLINA

SIGNATURE: \_\_\_\_\_ P.E.  
STATE DESIGN ENGINEER  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

APPROVED DIVISION ADMINISTRATOR DATE

STATE OF NORTH CAROLINA  
DIVISION OF HIGHWAYS

\*S.U.E = SUBSURFACE UTILITY ENGINEER

CONVENTIONAL SYMBOLS

ROADS & RELATED ITEMS

Edge of Pavement	-----
Curb	-----
Prop. Slope Stakes Cut	-----C-----
Prop. Slope Stakes Fill	-----F-----
Prop. Woven Wire Fence	-----○-----
Prop. Chain Link Fence	-----□-----
Prop. Barbed Wire Fence	-----◇-----
Prop. Wheelchair Ramp	-----WCR-----
Curb Cut for Future Wheelchair Ramp	-----CCFR-----
Exist. Guardrail	-----+-----
Prop. Guardrail	-----+-----
Equality Symbol	-----⊕-----
Pavement Removal	-----⊗-----

RIGHT OF WAY

Baseline Control Point	-----◆-----
Existing Right of Way Marker	-----△-----
Exist. Right of Way Line w/Marker	-----△-----
Prop. Right of Way Line with Proposed RW Marker (Iron Pin & Cap)	-----▲-----
Prop. Right of Way Line with Proposed (Concrete or Granite) RW Marker	-----⊙-----
Exist. Control of Access Line	-----⊙-----
Prop. Control of Access Line	-----⊙-----
Exist. Easement Line	-----E-----
Prop. Temp. Construction Easement Line	-----E-----
Prop. Temp. Drainage Easement Line	-----TDE-----
Prop. Perm. Drainage Easement Line	-----PDE-----
Prop. Perm. Access Easement Line	-----PAE-----

HYDROLOGY

Stream or Body of Water	-----
River Basin Buffer	-----RZ-----
Flow Arrow	-----→-----
Disappearing Stream	-----
Spring	-----
Swamp Marsh	-----
Shoreline	-----
Falls, Rapids	-----
Prop Lateral, Tail, Head Ditches	-----

STRUCTURES

MAJOR	
Bridge, Tunnel, or Box Culvert	-----CONC-----
Bridge Wing Wall, Head Wall and End Wall	-----)CONC WW(-----

MINOR	
Head & End Wall	-----CONC HW-----
Pipe Culvert	-----
Footbridge	-----
Drainage Boxes	-----CB-----
Paved Ditch Gutter	-----

UTILITIES

Exist. Pole	-----●-----
Exist. Power Pole	-----○-----
Prop. Power Pole	-----○-----
Exist. Telephone Pole	-----○-----
Prop. Telephone Pole	-----○-----
Exist. Joint Use Pole	-----○-----
Prop. Joint Use Pole	-----○-----
Telephone Pedestal	-----
U/G Telephone Cable Hand Hold	-----
Cable TV Pedestal	-----
U/G TV Cable Hand Hold	-----
U/G Power Cable Hand Hold	-----
Hydrant	-----
Satellite Dish	-----
Exist. Water Valve	-----
Sewer Clean Out	-----
Power Manhole	-----
Telephone Booth	-----
Cellular Telephone Tower	-----
Water Manhole	-----
Light Pole	-----
H-Frame Pole	-----
Power Line Tower	-----
Pole with Base	-----
Gas Valve	-----
Gas Meter	-----
Telephone Manhole	-----
Power Transformer	-----
Sanitary Sewer Manhole	-----
Storm Sewer Manhole	-----
Tank; Water, Gas, Oil	-----
Water Tank With Legs	-----
Traffic Signal Junction Box	-----
Fiber Optic Splice Box	-----
Television or Radio Tower	-----
Utility Power Line Connects to Traffic Signal Lines Cut Into the Pavement	-----TS-----

Recorded Water Line	-----
Designated Water Line (S.U.E.*)	-----
Sanitary Sewer	-----SS-----
Recorded Sanitary Sewer Force Main	-----FSS-----
Designated Sanitary Sewer Force Main(S.U.E.*)	-----FSS-----
Recorded Gas Line	-----G-----
Designated Gas Line (S.U.E.*)	-----G-----
Storm Sewer	-----S-----
Recorded Power Line	-----P-----
Designated Power Line (S.U.E.*)	-----P-----
Recorded Telephone Cable	-----T-----
Designated Telephone Cable (S.U.E.*)	-----T-----
Recorded U/G Telephone Conduit	-----TC-----
Designated U/G Telephone Conduit (S.U.E.*)	-----TC-----
Unknown Utility (S.U.E.*)	-----TUTL-----
Recorded Television Cable	-----TV-----
Designated Television Cable (S.U.E.*)	-----TV-----
Recorded Fiber Optics Cable	-----FO-----
Designated Fiber Optics Cable (S.U.E.*)	-----FO-----
Exist. Water Meter	-----○-----
U/G Test Hole (S.U.E.*)	-----⊙-----
Abandoned According to U/G Record	-----ATTUR-----
End of Information	-----E.O.I-----

BOUNDARIES & PROPERTIES

State Line	-----
County Line	-----
Township Line	-----
City Line	-----
Reservation Line	-----
Property Line	-----
Property Line Symbol	-----
Exist. Iron Pin	-----
Property Corner	-----
Property Monument	-----
Property Number	-----
Parcel Number	-----
Fence Line	-----
Existing Wetland Boundaries	-----
High Quality Wetland Boundary	-----HO WLB-----
Medium Quality Wetland Boundaries	-----MO WLB-----
Low Quality Wetland Boundaries	-----LO WLB-----
Proposed Wetland Boundaries	-----WLB-----
Existing Endangered Animal Boundaries	-----EAB-----
Existing Endangered Plant Boundaries	-----EPB-----

BUILDINGS & OTHER CULTURE

Buildings	-----
Foundations	-----
Area Outline	-----
Gate	-----
Gas Pump Vent or U/G Tank Cap	-----
Church	-----
School	-----
Park	-----
Cemetery	-----
Dam	-----
Sign	-----
Well	-----
Small Mine	-----
Swimming Pool	-----

TOPOGRAPHY

Loose Surface	-----
Hard Surface	-----
Change in Road Surface	-----
Curb	-----
Right of Way Symbol	-----R/W-----
Guard Post	-----OGP-----
Paved Walk	-----
Bridge	-----
Box Culvert or Tunnel	-----
Ferry	-----
Culvert	-----
Footbridge	-----
Trail, Footpath	-----
Light House	-----

VEGETATION

Single Tree	-----
Single Shrub	-----
Hedge	-----
Woods Line	-----
Orchard	-----
Vineyard	-----

RAILROADS

Standard Gauge	-----
RR Signal Milepost	-----
Switch	-----

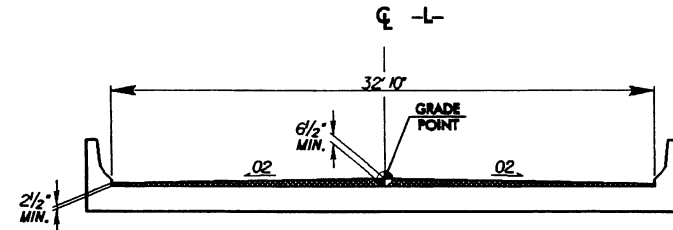
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REVISED BY: JTB  
PROJECT: B-3521  
SHEET: 1-B

PROJECT REFERENCE NO. B-3521	SHEET NO. 2
ROADWAY DESIGN ENGINEER	PAVEMENT DESIGN ENGINEER

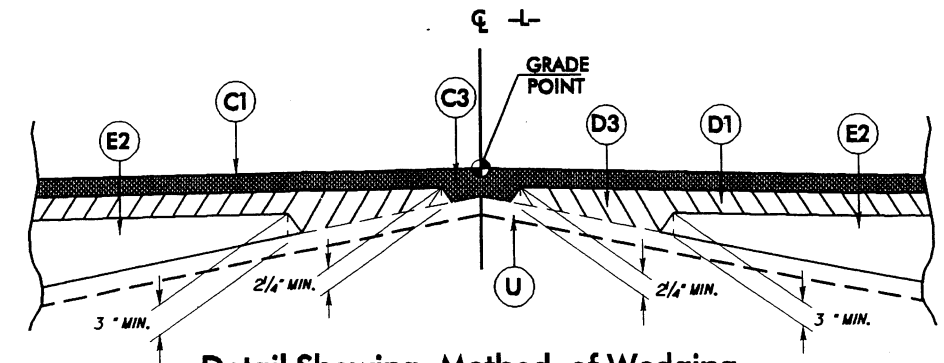


# PAVEMENT SCHEDULE

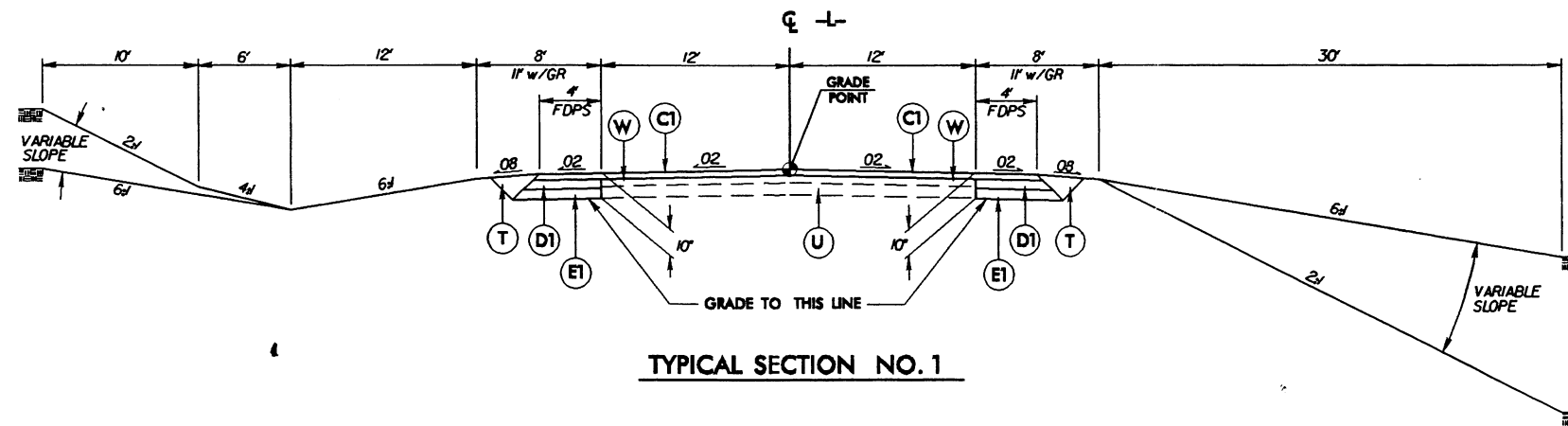
C1	PROP. APPROX. 2 1/4" ASPHALT CONCRETE SURFACE COURSE, TYPE 89.5B, AT AN AVERAGE RATE OF 140 LBS. PER SQ. YD. IN EACH OF TWO LAYERS	D2	PROP. APPROX. 2 1/4" ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE I19.0B, AT AN AVERAGE RATE OF 258.5 LBS. PER SQ. YD.	J1	PROP. 8" AGGREGATE BASE COURSE.
C2	PROP. APPROX. 1 1/4" ASPHALT CONCRETE SURFACE COURSE, TYPE 89.5A, AT AN AVERAGE RATE OF 140 LBS. PER SQ. YD.	D3	PROP. VAR. DEPTH ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE I19.0B, AT AN AVERAGE RATE OF 114 LBS. PER SQ. YD. PER 1" DEPTH, TO BE PLACED IN LAYERS NOT LESS THAN 2 1/4" IN DEPTH OR GREATER THAN 4" IN DEPTH.	J2	PROP. 8" AGGREGATE BASE COURSE.
C3	PROP. VAR. DEPTH ASPHALT CONCRETE SURFACE COURSE, TYPE 89.5B, AT AN AVERAGE RATE OF 112 LBS. PER SQ. YD. PER 1" DEPTH, TO BE PLACED IN LAYERS NOT TO EXCEED 1 1/2" IN DEPTH.	E1	PROP. APPROX. 4 1/2" ASPHALT CONCRETE BASE COURSE, TYPE B25.0B, AT AN AVERAGE RATE OF 813 LBS. PER SQ. YD.	T	EARTH MATERIAL.
D1	PROP. APPROX. 3" ASPHALT CONCRETE INTERMEDIATE COURSE, TYPE I19.0B, AT AN AVERAGE RATE OF 342 LBS. PER SQ. YD.	E2	PROP. VAR. DEPTH ASPHALT CONCRETE BASE COURSE, TYPE B25.0B, AT AN AVERAGE RATE OF 114 LBS. PER SQ. YD. PER 1" DEPTH, TO BE PLACED IN LAYERS NOT LESS THAN 3" IN DEPTH OR GREATER THAN 5 1/2" IN DEPTH.	U	EXISTING PAVEMENT.
				W	VARIABLE DEPTH ASPHALT PAVEMENT (SEE WEDGING DETAIL)



Detail Showing Asphalt Wearing Surface On Cored Slab Bridge



Detail Showing Method of Wedging

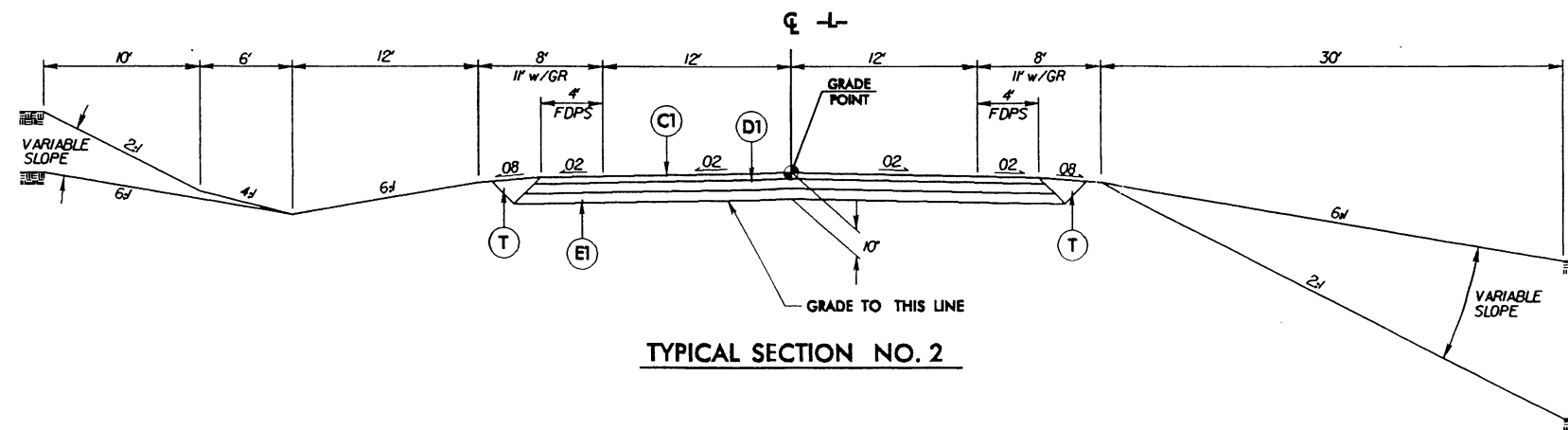


TYPICAL SECTION NO. 1

NOTES: TRANSITION FROM EXISTING TO TYPICAL SECTION NO. 1  
 -L- STA. 10+00.00 TO -L- STA. 12+00.00  
 -L- STA. 22+00.00 TO -L- STA. 24+00.00

USE TYPICAL SECTION NO. 1

-L- STA. 12+00.00 TO -L- STA. 13+00.00  
 -L- STA. 19+50.00 TO -L- STA. 22+00.00



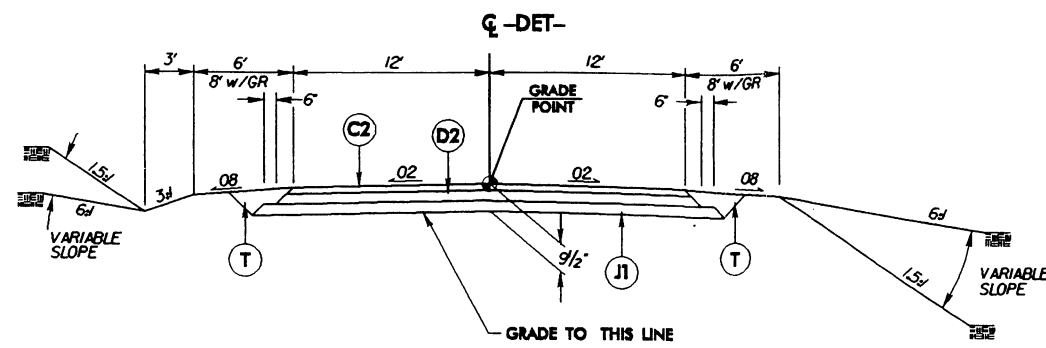
TYPICAL SECTION NO. 2

USE TYPICAL SECTION NO. 2

-L- STA. 13+00.00 TO -L- STA. 16+28.00 (BEGIN BRIDGE)  
 -L- STA. 17+85.00 (END BRIDGE) TO -L- STA. 19+50.00

5/14/99

PROJECT REFERENCE NO. B-3521	SHEET NO. 2-A
ROADWAY DESIGN ENGINEER	PAVEMENT DESIGN ENGINEER



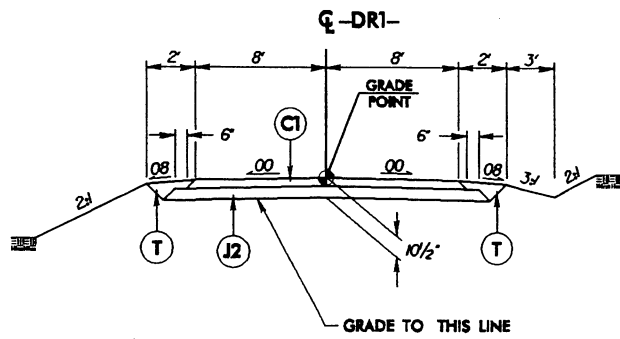
**TYPICAL SECTION NO. 3**

**USE TYPICAL SECTION NO. 3**

-DET- STA. 12+14.69 TO -DET- STA. 16+20 +/- (BEGIN BRIDGE)  
-DET- STA. 18+05 +/- (END BRIDGE) TO -DET- STA. 22+06.40

NOTES: TRANSITION FROM EXISTING TO TYPICAL SECTION NO. 3  
-DET- STA. 10+50.00 - 12+14.69  
-DET- STA. 22+06.40 - 23+71.09

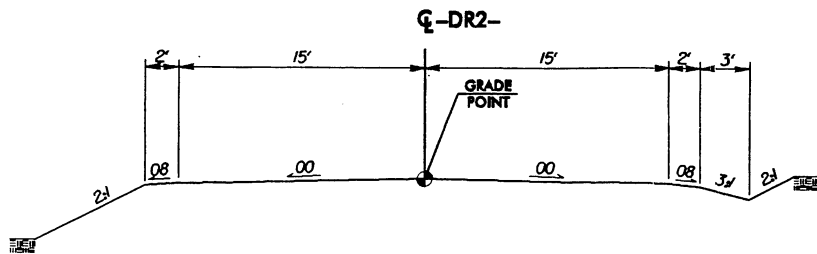
PAVEMENT SCHEDULE	
C1	PROP. APPROX. 2 1/2" ASPHALT CONCRETE SURFACE COURSE
C2	PROP. APPROX. 1 1/4" ASPHALT CONCRETE SURFACE COURSE
D2	PROP. APPROX. 2 1/4" ASPHALT CONCRETE INTERMEDIATE COURSE
J1	PROP. 8" AGGREGATE BASE COURSE.
J2	PROP. 8" AGGREGATE BASE COURSE.
T	EARTH MATERIAL.



**TYPICAL SECTION NO. 4**

**USE TYPICAL SECTION NO. 4**

-DR1- STA. 10+17.00 TO -DR1- STA. 11+10.00



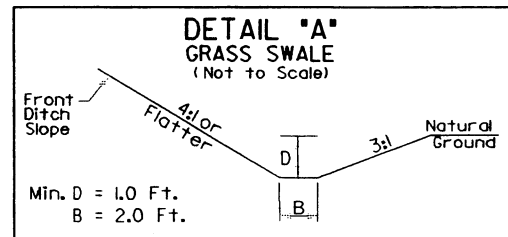
**TYPICAL SECTION NO. 5**

**USE TYPICAL SECTION NO. 5**

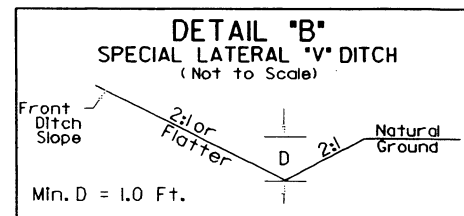
-DR2- STA. 10+00.00 TO -DR2- STA. 11+34.00

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title AI 2023273

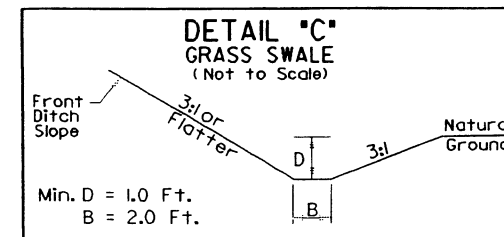
PROJECT REFERENCE NO.	SHEET NO.
B-3521	2-B
	HYDRAULICS ENGINEER



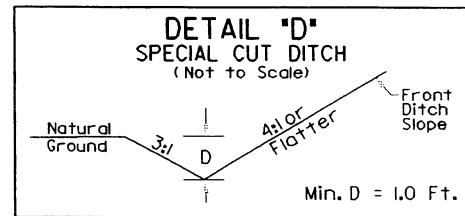
-L- STA. 12+50 TO 13+59 RT.



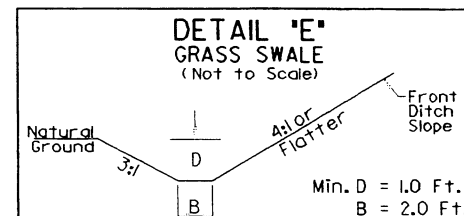
-L- STA. 14+00 TO 14+65 RT.



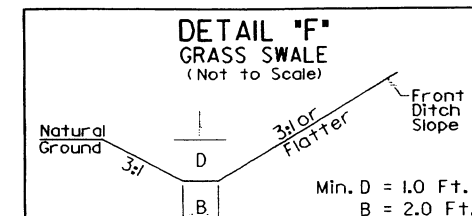
-L- STA. 14+65 TO 15+00 RT.



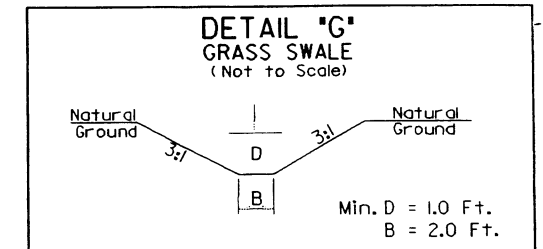
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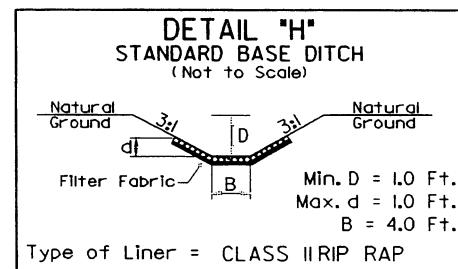
-L- STA. 14+00 TO 15+00 LT.



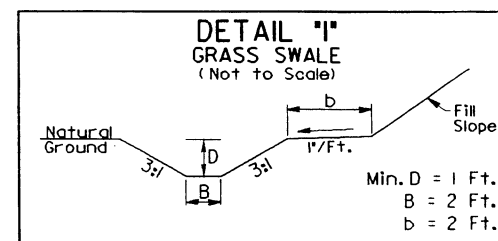
-L- STA. 13+50 TO 14+00 LT.  
-L- STA. 15+00 TO 15+75 LT.



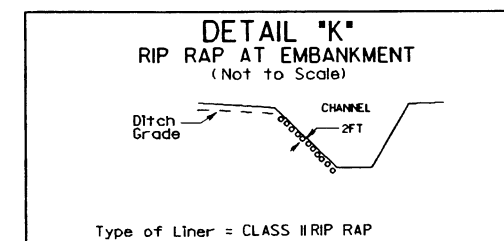
-L- STA. 15+75 TO 16+00 LT.



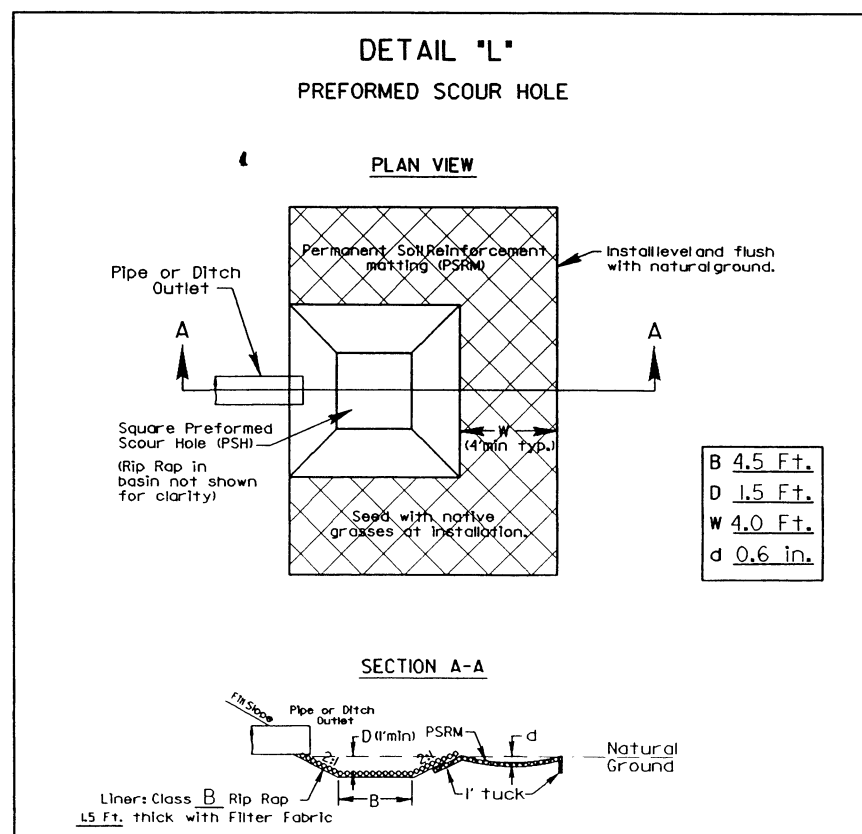
-L- STA. 16+24 TO 16+52 RT.  
-L- STA. 16+22 TO 16+58 LT.



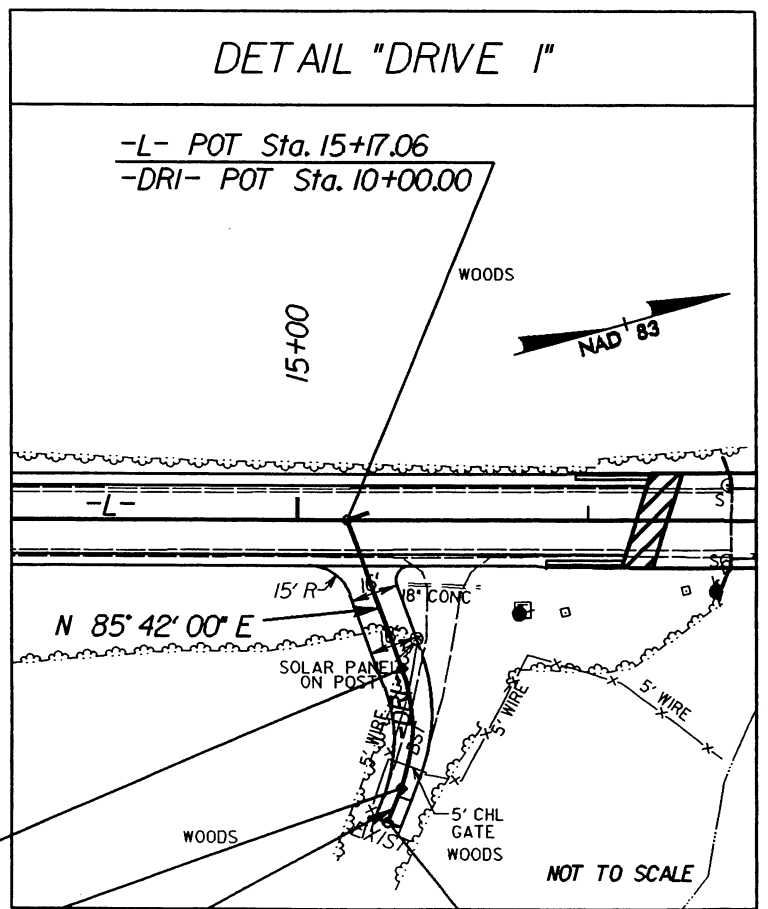
-L- STA. 17+44 TO 20+40 LT.



-L- STA. 16+51 RT. TO WATERS EDGE  
-L- STA. 17+44 LT. TO WATERS EDGE



25-JUN-2004 13:55:52 detail.dgn



-DRI- PC Sta. 10+54.91

-DRI- PT Sta. 10+97.37

S 53° 45' 00" E

-DRI-

PI Sta 10+77.07

$\Delta = 40^\circ 33' 00.0''$  (RT)

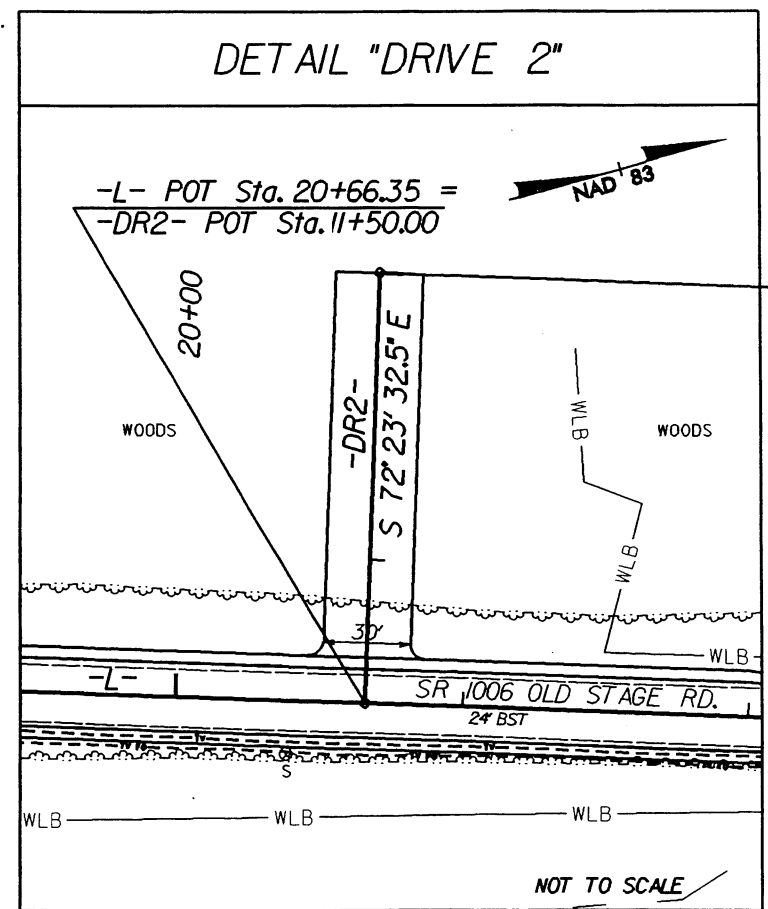
D = 95' 29' 34.7"

L = 42.46'

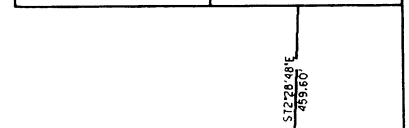
T = 22.16'

R = 60.00'

-DRI- POT Sta. 11+10.00



-DR2- POT Sta. 10+00.00



NAD '83

SARAH T. BLAKE  
AND HUSBAND  
GERVIS S. BLAKE  
D.B. 09205 PG. 1750

**-DET-**

PI Sta 11+39.95 Δ = 17° 50' 41" (LT) D = 10' 00' 00.0" L = 178.45' T = 89.95' R = 572.96'	PI Sta 13+23.85 Δ = 18° 54' 26.5" (RT) D = 10' 00' 00.0" L = 189.07' T = 95.40' R = 572.96'	PI Sta 21+09.61 Δ = 18° 11' 32.5" (RT) D = 10' 00' 00.0" L = 181.92' T = 91.73' R = 572.96'	PI Sta 22+86.09 Δ = 17° 07' 41.2" (LT) D = 10' 00' 00.0" L = 171.30' T = 86.29' R = 572.96'
--	--	--	--

**-L-**

PI Sta 18+26.86  
Δ = 2° 07' 30.7" (RT)  
D = 0' 30' 00.0"  
L = 425.04'  
T = 212.54'  
R = 11,459.16'  
SE = NC

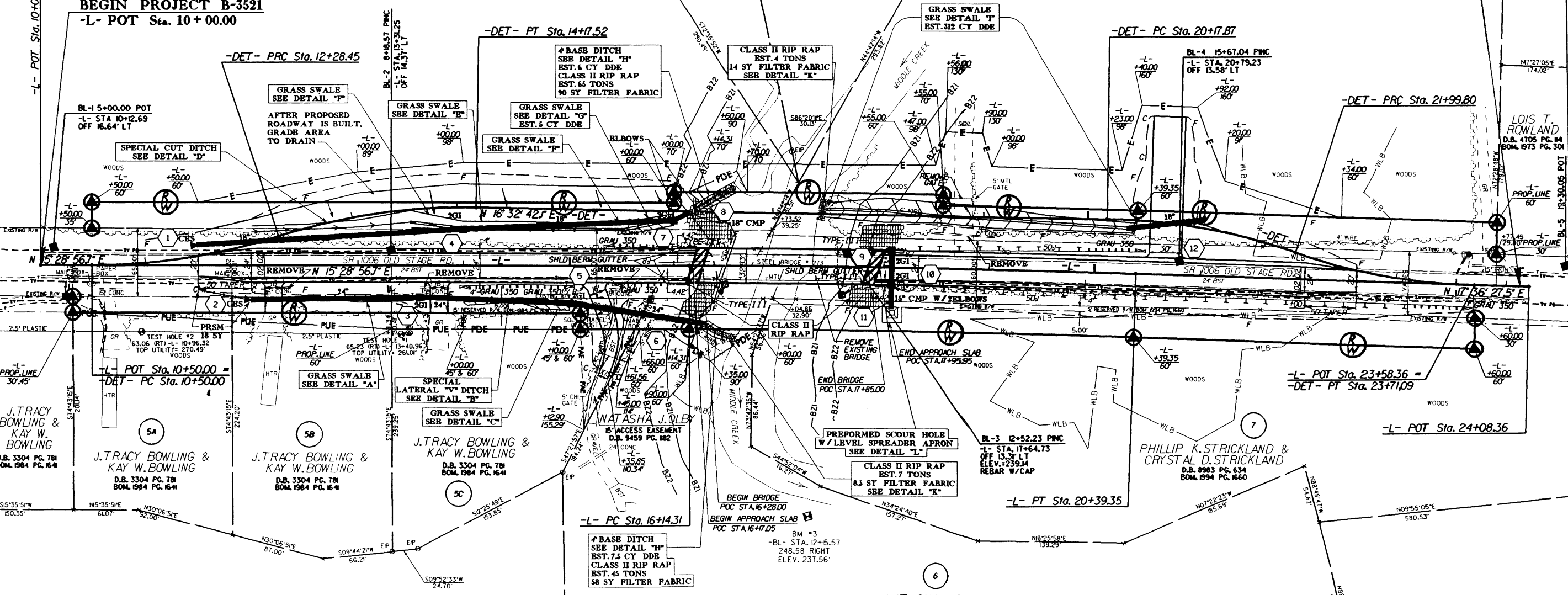
1  
NORMAN L. GOOD &  
NORMA T. GOOD  
D.B. 8133 PG. 1945  
BOM. 1997 PG. 1524

2  
ELIZABETH K. ASHWORTH  
D.B. 10262 PG. 1836

3  
SAMUEL I. GOLIGHTLY III &  
GERRY LEIGH GOLIGHTLY  
D.B. 882 PG. 248  
BOM. 1997 PG. 1524

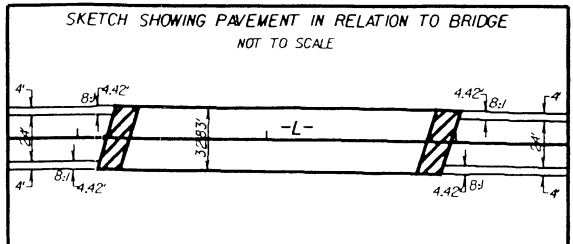
END PROJECT B-3521  
-L- POT Sta. 24+00.00

BEGIN PROJECT B-3521  
-L- POT Sta. 10+00.00



**DATUM DESCRIPTION**


THE LOCALIZED COORDINATE SYSTEM DEVELOPED FOR THIS PROJECT IS BASED ON THE STATE PLANE COORDINATES ESTABLISHED BY MCDOT FOR MONUMENT "B-3521-1" WITH NAD 1983/95 STATE PLANE GRID COORDINATES OF NORTHING: 678331.358(11) EASTING: 2093728.908(11) THE AVERAGE COMBINED GRID FACTOR USED ON THIS PROJECT (GROUND TO GRID) IS: 0.99988350 THE N. C. LAMBERT GRID BEARING AND LOCALIZED HORIZONTAL GROUND DISTANCE FROM "B-3521-1" TO "L" STATION 10+00.00 IS S 17° 35' 13.91" W 2243.05 11 ALL LINEAR DIMENSIONS ARE LOCALIZED HORIZONTAL DISTANCES VERTICAL DATUM USED IS MVD 88



- NOTES: (1) ALL DRIVEWAYS HAVE 5' RADII UNLESS SHOWN OTHERWISE  
(2) SEE SHEET 4-A FOR -DET- PLAN VIEW  
(3) SEE SHEET 5 FOR -L- PROFILE  
(4) SEE SHEET 6 FOR -DRI- & -DR2- PROFILES  
(5) SEE SHEET 2-B FOR DRAINAGE DETAILS  
(6) SEE SHEETS 2-C FOR -DRI- & -DR2- DRIVEWAY DETAILS  
(7) SEE SHEETS S-1 TO S-23 FOR STRUCTURE DETAILS

REVISIONS

8/17/99  
15 JUN 1994 10:45  
16 JUN 1994 10:45  
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21 DEC 1994 10:45  
22 DEC 1994 10:45  
23 DEC 1994 10:45  
24 DEC 1994 10:45  
25 DEC 1994 10:45  
26 DEC 1994 10:45  
27 DEC 1994 10:45  
28 DEC 1994 10:45  
29 DEC 1994 10:45  
30 DEC 1994 10:45  
31 DEC 1994 10:45

PROJECT REFERENCE NO. B-3521	SHEET NO. 4-A
HW SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER
	

**-DET-**

PI Sta 11+39.95 Δ = 17° 50' 41" (LT) D = 10' 00' 00.0" L = 178.45' T = 89.95' R = 572.96' SE = SEE PLAN	PI Sta 13+23.85 Δ = 18° 54' 26.5" (RT) D = 10' 00' 00.0" L = 189.07' T = 95.40' R = 572.96' SE = SEE PLAN	PI Sta 21+09.61 Δ = 18° 11' 32.5" (RT) D = 10' 00' 00.0" L = 181.92' T = 91.73' R = 572.96' SE = SEE PLAN	PI Sta 22+86.09 Δ = 17° 07' 47.2" (LT) D = 10' 00' 00.0" L = 171.30' T = 86.29' R = 572.96' SE = SEE PLAN
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**-L-**

PI Sta 18+26.86  
Δ = 2° 07' 30.7" (RT)  
D = 0' 30' 00.0"  
L = 425.04'  
T = 212.54'  
R = 11,459.16'  
SE = NC

**DETOUR**



SARAH T. BLAKE AND HUSBAND GERVIS S. BLAKE  
D.B. 09205 PG. 1750

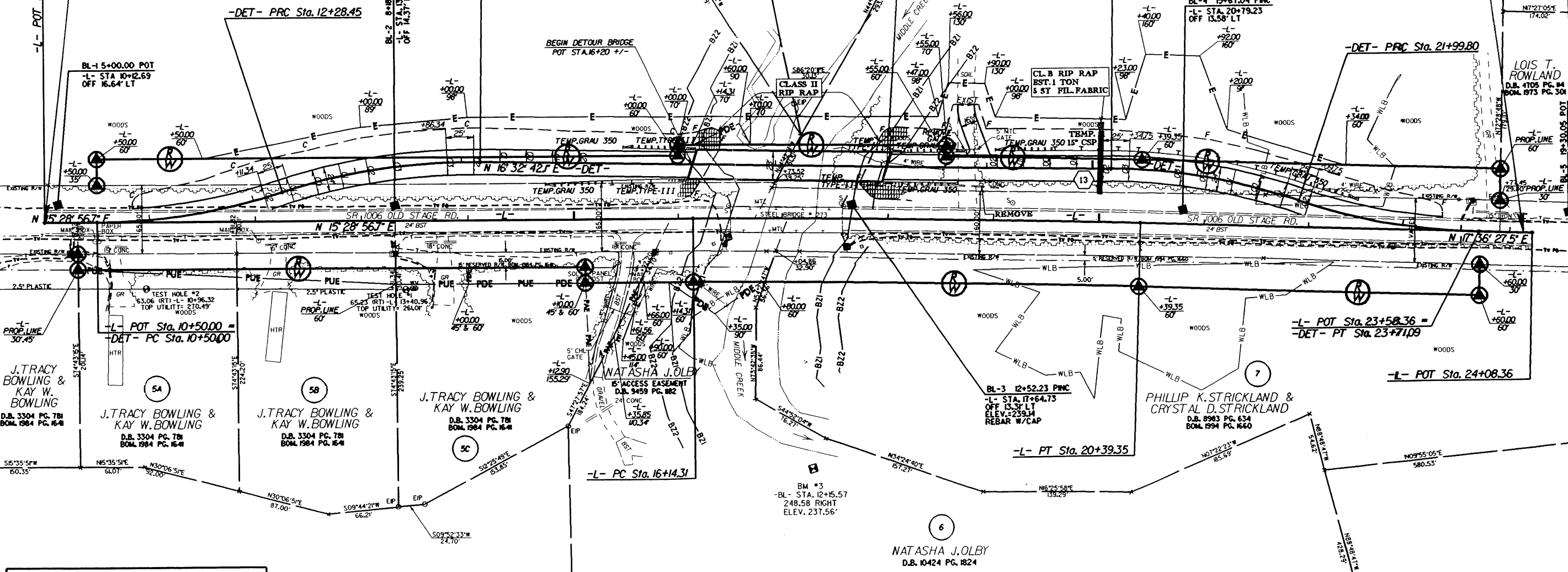
**1**  
NORMAN L. GOOD & NORMA T. GOOD  
D.B. 8133 PG. 1945  
BOM. 1997 PG. 1524

**2**  
ELIZABETH K. ASHWORTH  
D.B. 10262 PG. 1836

**3**  
SAMUEL I. GOLIGHTLY III & GERRY LEIGH GOLIGHTLY  
D.B. 882 PG. 248  
BOM. 1997 PG. 1524

**END PROJECT B-3521**  
-L- POT Sta. 24+00.00

**BEGIN PROJECT B-3521**  
-L- POT Sta. 10+00.00



**J. TRACY BOWLING & KAY W. BOWLING**  
D.B. 3304 PG. 781  
BOM. 1984 PG. 164

**J. TRACY BOWLING & KAY W. BOWLING**  
D.B. 3304 PG. 781  
BOM. 1984 PG. 164

**J. TRACY BOWLING & KAY W. BOWLING**  
D.B. 3304 PG. 781  
BOM. 1984 PG. 164

**J. TRACY BOWLING & KAY W. BOWLING**  
D.B. 3304 PG. 781  
BOM. 1984 PG. 164

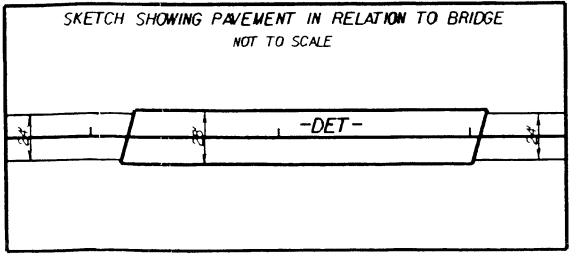
**NATASHA J. OLBY**  
15' ACCESS EASEMENT  
D.B. 9459 PG. 882

**PHILLIP K. STRICKLAND & CRYSTAL D. STRICKLAND**  
D.B. 8983 PG. 634  
BOM. 1994 PG. 1660

**NATASHA J. OLBY**  
D.B. 10424 PG. 1824

**DATUM DESCRIPTION**

THE LOCALIZED COORDINATE SYSTEM DEVELOPED FOR THIS PROJECT IS BASED ON THE STATE PLANE COORDINATES ESTABLISHED BY MDDOT FOR MONUMENT "B-3521-1" WITH NAD 1983/95 STATE PLANE GRID COORDINATES OF NORTHING: 678331.358111 EASTING: 2093728.908111 THE AVERAGE COMBINED GRID FACTOR USED ON THIS PROJECT (GROUND TO GRID) IS: 0.99988350 THE N. C. LAMBERT GRID BEARING AND LOCALIZED HORIZONTAL GROUND DISTANCE FROM "B-3521-1" TO L- STATION 10+00.00 IS S 17° 35' 13.91" W 2243.05 11 ALL LINEAR DIMENSIONS ARE LOCALIZED HORIZONTAL DISTANCES VERTICAL DATUM USED IS NAD 88



NOTES: (1) ALL DRIVEWAYS HAVE 5' RADIUS UNLESS SHOWN OTHERWISE  
(2) SEE SHEET 4 FOR -L- PLAN VIEW  
(3) SEE SHEET 5 FOR -DET- PROFILE  
(4) SEE SHEET 2-B FOR DRAINAGE DETAILS


8/17/99

15 JUN 2004 13:55  
S:\PROJECTS\B3521\104\04.dwg  
Drawing: B3521-104.dwg



5/28/99

PROJECT REFERENCE NO. B-3521	SHEET NO. 5
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

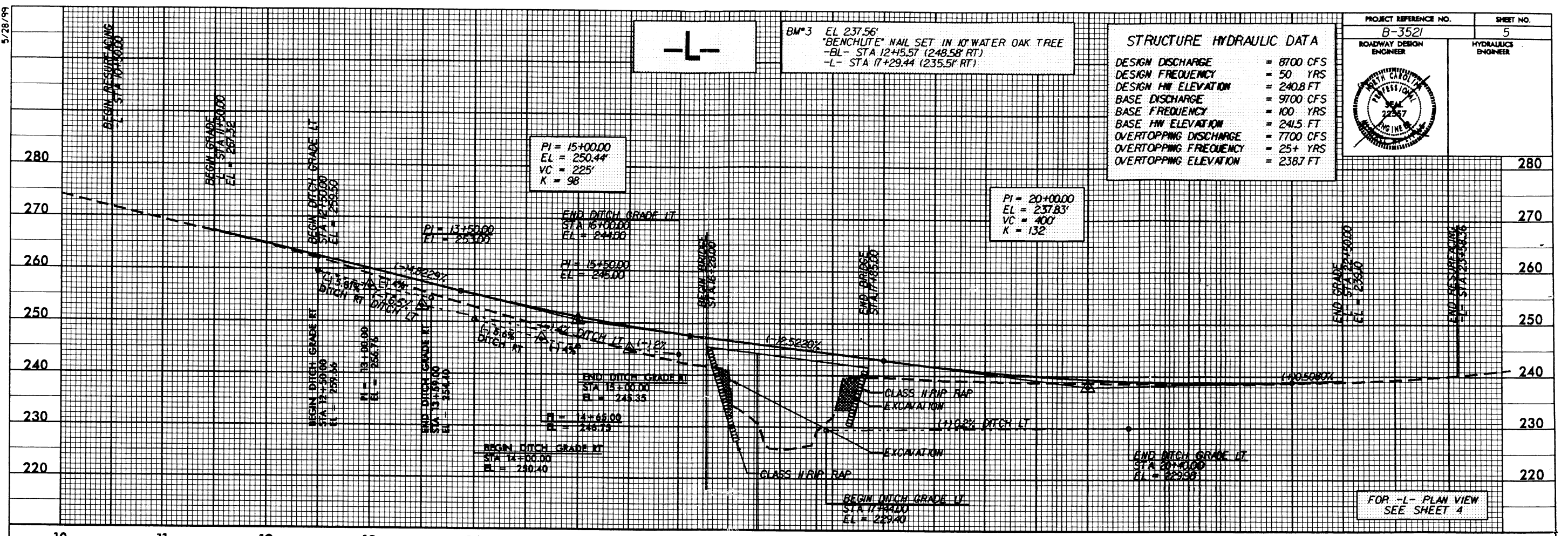


**-L-**

BM\*3 EL 237.56'  
 \*BENCHLITE\* NAIL SET IN 10" WATER OAK TREE  
 -BL- STA 12+45.57 (248.58' RT)  
 -L- STA 17+29.44 (235.51' RT)

**STRUCTURE HYDRAULIC DATA**

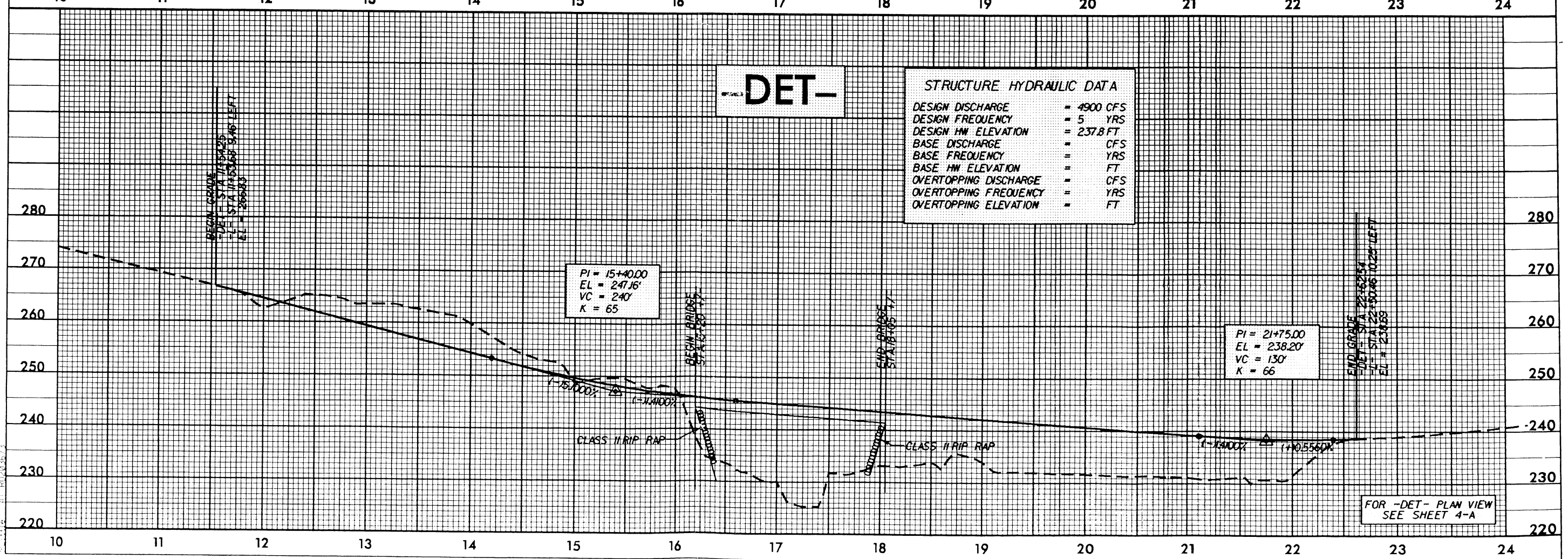
DESIGN DISCHARGE	= 8700 CFS
DESIGN FREQUENCY	= 50 YRS
DESIGN HW ELEVATION	= 240.8 FT
BASE DISCHARGE	= 9700 CFS
BASE FREQUENCY	= 100 YRS
BASE HW ELEVATION	= 241.5 FT
OVERTOPPING DISCHARGE	= 7700 CFS
OVERTOPPING FREQUENCY	= 25+ YRS
OVERTOPPING ELEVATION	= 238.7 FT



**-DET-**

**STRUCTURE HYDRAULIC DATA**


DESIGN DISCHARGE	= 4900 CFS
DESIGN FREQUENCY	= 5 YRS
DESIGN HW ELEVATION	= 237.8 FT
BASE DISCHARGE	= CFS
BASE FREQUENCY	= YRS
BASE HW ELEVATION	= FT
OVERTOPPING DISCHARGE	= CFS
OVERTOPPING FREQUENCY	= YRS
OVERTOPPING ELEVATION	= FT



5/28/99 10:00 AM

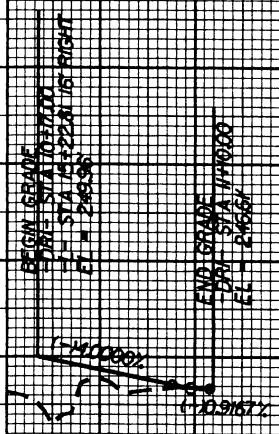
5/28/99

PROJECT REFERENCE NO. B-3521	SHEET NO. 6
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER



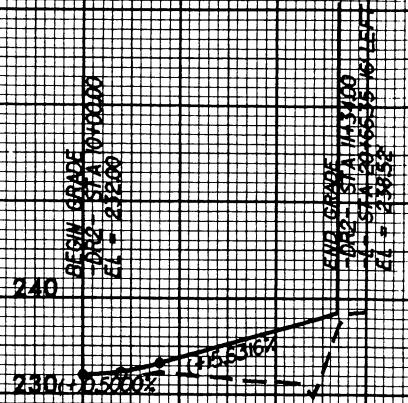
**-DR1-**

**-DR2-**



PI = 10+98.00  
 EL = 246.72'  
 VC = 20'

FOR -DR1- PLAN VIEW  
 SEE SHEET 4



PI = 10+20.00  
 EL = 232.10'  
 VC = 40'

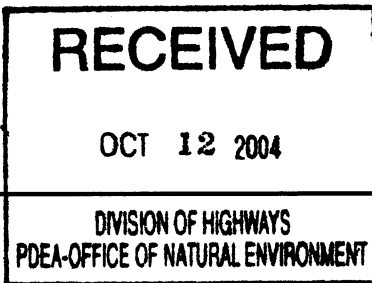
FOR -DR2- PLAN VIEW  
 SEE SHEET 4

10

11

11

PLANNING DIVISION  
 PROJECT NO. 98-206  
 DATE: 5/28/99



Michael F. Easley, Governor  
 William G. Ross Jr., Secretary  
 North Carolina Department of Environment and Natural Resources  
 Alan W. Klimek, P.E. Director  
 Division of Water Quality

October 11, 2004  
 Wake County  
 DWQ Project No. 031456  
 TIP No. B-3521

Dr. Gregory J. Thorpe, PhD., Manager  
 Planning & Environmental Branch  
 N.C. Department of Transportation  
 1548 Mail Service Center  
 Raleigh, North Carolina, 27699-1548

Dear Dr. Thorpe:

Re: Amended Certification Pursuant to Section 401 of the Federal Clean Water Act and Neuse Buffer Certification, Modification for the replacement of Bridge No. 273 over Middle Creek on SR 1006 in Wake County, TIP B-3521, Federal Aid Project No. BRZ-1006(13), State Project No. 8.2407501, WQC Project No. 031456.

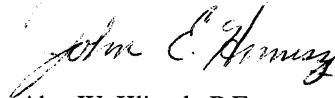
Attached hereto is an amendment to modification to Certification No. 031456 issued to the North Carolina Department of Transportation on January 5, 2004. The attached amended modification authorizes the following:

Site Location	Action taken
STA 18+82 to STA 22+25 Rt.	Increase of 0.073 ac of mechanized wetland clearing
STA 21+49 to 22+60 Lt.	Decrease of 0.015 ac of wetland fill; Decrease of 0.004 mechanized wetland clearing
STA 16+27 to 16+61 Rt.	Increase of 0.007 ac of mechanized wetland clearing
STA 21+40 to 22+84 Lt. Det.	Increase of 0.015 ac of temporary wetland fill; Increase of 0.008 ac of mechanized wetland clearing
Total New Wetland Impacts	0.084
<b>Total Wetland Impacts for Project Requiring Mitigation</b>	<b>0.317</b>
STA 17+06	Increase of 1,293 sq. ft. of buffer impact in Zone 1; Increase of 250 sq. ft. of buffer impact in Zone 2
STA 17+12.5 Det.	Increase of 382 sq. ft. of buffer impact in Zone 1; Decrease of 150 sq. ft. of buffer impact in Zone 2
Total New Buffer Impacts	1,775 sq. ft. (1,675 sq. ft. Zone 1 and 100 sq. ft. Zone 2)
<b>Original Authorized Buffer Impacts</b>	<b>12,980 (7,971 sq. ft. Zone 1 and 5,009 sq. ft. Zone 2) – Permanent</b> <b>3,746 (2,352 sq. ft. Zone 1 and 1,394 sq. ft. Zone 2) - Temporary</b>
<b>Total Buffer Impacts for Project Requiring Mitigation</b>	<b>14,523 sq. ft. (9,264 sq. ft. Zone 1 and 5,259 sq. ft. Zone 2)</b>

This amended modification is applicable only to the additional proposed activities. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated January 5, 2004 still apply except where superceded by this certification.

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

Sincerely,



Alan W. Klimek, P.E.  
Director

Attachments:

Modification to WQC No. 031456

cc: Wilmington District US Army Corps of Engineers  
Mr. Eric Alsmeyer, US Army Corps of Engineers Raleigh Field Office  
NCDWQ Raleigh Regional Office  
Mr. Jon G. Nance, Division 5 Engineer, 2612 N. Duke Street, Durham, NC 27704  
Mr. Chris Murray, Division 5 Environmental Officer, 2612 N. Duke Street, Durham, NC 27704  
Central Files  
File Copy

## NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

**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, Section .0500. The attached modification authorizes the following:

Site Location	Action taken
STA 18+82 to STA 22+25 Rt.	Increase of 0.073 ac of mechanized wetland clearing
STA 21+49 to 22+60 Lt.	Decrease of 0.015 ac of wetland fill; Decrease of 0.004 mechanized wetland clearing
STA 16+27 to 16+61 Rt.	Increase of 0.007 ac of mechanized wetland clearing
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STA 17+12.5 Det.	Increase of 382 sq. ft. of buffer impact in Zone 1; Decrease of 150 sq. ft. of buffer impact in Zone 2
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<b>Total Buffer Impacts for Project Requiring Mitigation</b>	<b>14,523 sq. ft. (9,264 sq. ft. Zone 1 and 5,259 sq. ft. Zone 2)</b>

This amended modification is applicable only to the additional proposed activities. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated January 5, 2004 still apply except where superseded by this certification.

The application provides adequate assurance that the fill and mechanized clearing in the wetlands as well as the protected Neuse Riparian Buffer impacts 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. 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 total wetland fills for this project (now or in the future exceed one acre, 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.

Condition(s) of Certification:

1. Construction will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Erosion and sediment control practices must 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.
  - a. The erosion and sediment control measures for the project must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Sediment and Erosion Control Planning and Design Manual. These devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits

associated with the project.

- b. For borrow pit sites, the erosion and sediment control measures must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Surface Mining Manual. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
2. A copy of this Water Quality Certification shall be posted 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.
3. Pursuant to NCAC15A 2B.0233(6), sediment and erosion control devices shall not be placed in Zone 1 of any Neuse Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.
4. No live or fresh concrete shall come into contact with waters of the state until the concrete has hardened.
5. There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this permit without appropriate modification of this permit. Should waste or borrow sites be located in wetlands or stream, compensatory mitigation will be required since it is a direct impact from road construction activities.
6. The post-construction removal of any temporary bridge structures will need to return the project site to its preconstruction contours and elevations. The revegetation of the impacted areas with appropriate native species is also required.
7. If the old bridge is removed, no discharge of bridge material into surface waters is preferred. Strict adherence the Corps of Engineers guidelines for bridge demolition will be a condition of the 401 Water Quality Certification.
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 should not be modified. Disturbed floodplains and streams should be restored to natural geomorphic conditions.
10. Any riprap used must not interfere with thalweg performance and aquatic life passage during low flow conditions.
11. Heavy equipment must be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the likelihood of introducing other pollutants into the stream.
12. 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.
13. The presence of equipment in the channels must be minimized. Under no circumstances must rock, sand or other materials be dredged from the wetted stream channel under authorization of this permit.
14. All work shall be performed during low or normal flow conditions.
15. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.

16. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization shall be clearly marked by orange fabric fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification
17. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed. The responsible party shall complete the attached form and return it to the Division of Water Quality upon completion of the project.
18. Riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
19. Compensatory mitigation for impacts riverine wetlands shall be done for 0.317 acres. Applying a replacement ration of 2:1, total mitigation for 0.634 acres riverine wetlands shall be provided by the NC Ecosystem Enhancement Program, per the letter dated August 5, 2004.
20. Mitigation for impacts to 9,264 square feet of protected riparian buffers in Zone 1 and 5,259 square feet of protected riparian buffers in Zone 2 will be mitigated for as described below:

<b>Zone of Impact</b>	<b>Impacts (Square Feet)</b>	<b>Replacement Ratio</b>	<b>Total Square Feet of Mitigation Required</b>
Zone 1	9,264	3:1	27,792
Zone 2	5,259	1.5:1	7,889
<b>Total</b>	<b>14,523</b>		<b>35,681</b>

We understand that you have chosen to perform compensatory mitigation for impacts to protected buffers through an in lieu payment to the North Carolina Ecosystem Enhancement Program (NCEEP), and that the EEP has agreed to implement the mitigation for the project. Mitigation for unavoidable impacts to Neuse Riparian Buffers shall be provided through an in-lieu payment to the North Carolina Ecosystem Enhancement Program (NCEEP) at a rate of \$0.96 per square foot for 35,681 square feet of buffer impact. Therefore, a total payment of \$34,253.76 shall be submitted to the NCEEP to offset the impacts. No construction activities in Neuse River Riparian buffers shall begin until payment for buffer mitigation is made and the Ecosystem Enhancement Program receives and clears your check (made payable to DENR – Ecosystem Enhancement Program).

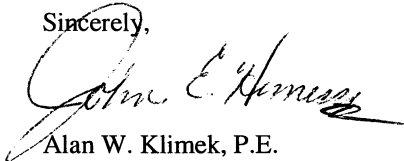
21. All stormwater runoff shall be directed to sheetflow through stream buffers at nonerosive velocities, unless approved otherwise by this certification.
22. All other conditions written into previous Water Quality Certifications for this project still apply.

Violations of any condition herein set forth shall 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 Permit. This Certification shall expire upon expiration of the 404 permit.

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, P.O. Box 27447, Raleigh, N.C. 27611-7447. 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 Nicole Thomson at 919-715-3415.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan W. Klimek". The signature is fluid and cursive, with a large initial "A" and "K".

Alan W. Klimek, P.E.

Modification to WQC No. 031456



**NORTH CAROLINA – DIVISION OF WATER QUALITY  
401 WATER QUALITY CERTIFICATION - MODIFICATION  
SUMMARY OF PERMITTED IMPACTS AND MITIGATION REQUIREMENTS**

In accordance with 15A NCAC 2H.0500, NCDOT, DWQ Project No. 013456 is authorized to impact the surface waters of the State of North Carolina as indicated below for the purpose of replacement of Bridge No. 273 over Middle Creek on SR 1006 in Wake County. All activities associated with these authorized impacts must be conducted in accordance with the conditions listed in the attached Certification transmittal letter. **THIS CERTIFICATION IS NOT VALID WITHOUT THE ATTACHMENTS.**

Summary of Impacts

- 0.317 acres of riverine wetlands through fill, excavation and mechanized clearing;

<b>Zone of Impact</b>	<b>Impacts (Square Feet)</b>	<b>Replacement Ratio</b>	<b>Total Square Feet of Mitigation Required</b>
Zone 1	9,264	3:1	27,792
Zone 2	5,259	1.5:1	7,889
<b>Total</b>	<b>14,523</b>		<b>35,681</b>

On-site mitigation to be performed by NCDOT:

- N/A

**COMPENSATORY MITIGATION REQUIREMENTS:**

**LOCATION:** Bridge No. 273

**COUNTY:** Wake County

**BASIN/SUBBASIN:** Neuse, Hydrologic Unit 3020201

As required by 15A NCAC 2B .0250 and 15A NCAC 2H .0506(h), and the conditions of this Certification, you are required to compensate for the above impacts through the restoration, creation, enhancement or preservation of wetlands, buffers, and surface waters as outlined below *prior* to conducting any activities that impact or degrade waters of the state. Mitigation to be performed by NC Ecological Enhancement Program in Hydrologic Unit 03020201:

- 0.317 acres of riverine wetlands.

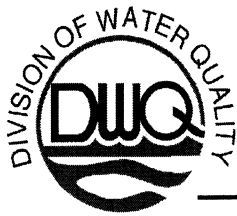
One of the options you have available to satisfy the compensatory mitigation requirements is through payment of a fee to the Ecosystem Enhancement Program per 15A NCAC 2R .0503. If you choose this option, please sign this form and mail it to the address listed below. An invoice for the appropriate amount of payment will be sent to you upon receipt of this form. **PLEASE NOTE, THE ABOVE IMPACTS ARE NOT AUTHORIZED UNTIL YOU RECEIVE NOTIFICATION THAT YOUR PAYMENT HAS BEEN PROCESSED BY THE ECOSYSTEM ENHANCEMENT PROGRAM.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

ECOSYSTEM ENHANCEMENT PROGRAM  
1652 Mail Service Center  
RALEIGH, NC, 27699-1652





DWQ 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/Wetlands Unit, North Carolina Division of Water Quality, 1621 Mail Service Center, Raleigh, NC, 27699-1621. This form may be returned to DWQ 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 \_\_\_\_\_



## PROJECT COMMITMENTS

Wake County  
Bridge No. 273 on SR 1006  
Over Middle Creek  
Federal Project BRZ-1006(13)  
State Project 8.2407501  
TIP No. B-3521

In addition to the standard Nationwide Permit No. 23 and 33 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, NCDOT's Guidelines for Best Management Practices for the Protection of Surface Waters, 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

#### ***Division 5***

Due to the presence of anadromous fish spawning grounds, in-water construction will be prohibited between February 15 and June 15.

#### ***Division 5, Structure Design Unit, Project Development and Environmental Analysis Branch (PDEA), Hydraulics Unit***

The following provisions must be incorporated into the design and enforced during construction to ensure the dwarf wedge mussel is not effected:

1. NCDOT shall conduct an in-stream survey just prior to the construction let date.
2. The NCDOT Resident Engineer shall be responsible for alerting Logan Williams of PDEA two months prior to the project being awarded so that they may plan the required in-stream survey.
3. There will be a moratorium on clearing and grubbing between November 15 and April 1.
4. Deck drains shall be configured so that the runoff does not fall into the stream.
5. The NCDOT Resident Engineer is responsible for providing a written invitation to the North Carolina Wildlife Resources Commission, Nongame and Protected Species Branch, and the US Fish and Wildlife Service for a field inspection prior to construction.
6. The erosion control plans for Protected Aquatic Species must be used. These plans include the following requirements:
  - Sediment and erosion controls must be in place prior to land clearing activities. No sediment from either bridge demolition or construction activities shall be allowed to enter the flowing stream.

- “Environmentally Sensitive Areas” will be defined on the plans, which consist of a 50 ft. buffer zone on both sides of the stream.
- The Contractor may perform clearing operations, but not grubbing operations in the “Environmentally Sensitive Areas,” until immediately prior to beginning grading operations.
- Once grading operations begin in “Environmentally Sensitive Areas,” as specified on the plans, work will progress in a continuous manner until complete.
- Seeding and mulching will be performed immediately following final grade establishment.
- Stage seeding will be performed on cut and fill slopes as grading progresses.

### ***Hydraulics Unit***

A floodway modification will be required for the bridge replacement project.

### **Commitments Developed Through Permitting**

#### ***Division 5, Roadside Environmental Unit (REU)***

The post-construction removal of any temporary bridge structures will need to return the project site to its pre-construction contours and elevations. The re-vegetation of the impacted areas with appropriate native species is also required.

Riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.

All protected riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the pre-construction contours and revegetated with native woody species upon completion of the project construction. A post-construction as-built with the restoration activities included shall be submitted to the DWQ no later than 60 days after the project is closed out by NCDOT.

#### ***PDEA***

Compensatory mitigation for impacts to riverine wetlands shall be done for 0.317 acre. Applying a replacement ratio of 2:1, total mitigation for 0.634 acre of riverine wetlands shall be provided by the NC Ecosystem Enhancement Program, per the letter dated August 5, 2004.

Mitigation for impacts to 9,264 square feet of protected riparian buffers in Zone 1 and 5,259 square feet of protected riparian buffers in Zone 2 will be mitigated for as described below:

<b>Zone of Impact</b>	<b>Impacts (square ft)</b>	<b>Replacement Ratio</b>	<b>Total Square Feet of Mitigation Required</b>
Zone 1	9,264	3:1	27,792
Zone 2	5,259	1.5:1	7,889
<b>Total</b>	<b>14,523</b>		<b>35,681</b>

NCDOT has chosen to perform compensatory mitigation for impacts to protected buffers through an in lieu payment to the EEP, and that the EEP has agreed to implement the mitigation for the project. Mitigation for unavoidable impacts to Neuse Riparian Buffers shall be provided through an in-lieu payment to the EEP at a rate of \$0.96 per square foot for 35,681 square feet of buffer impact. Therefore, a total payment of \$34,253.76 shall be submitted to the EEP to offset the impacts. No construction activities in Neuse River Riparian buffers shall begin until payment for buffer mitigation is made and the EEP receives and clears NCDOT's check (made payable to DENR-Ecosystem Enhancement Program).

***REU, Division 5***

Pursuant to NCAC15A 2B.0233(6), sediment and erosion control devices shall not be placed in Zone 1 of any Neuse Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released in diffuse flow.

***Division 5***

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.

***Hydraulics Unit, Division 5***

All stormwater runoff shall be directed to sheetflow through stream buffers at nonerosive velocities, unless approved otherwise by the buffer certification.

No changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of grassed swales, or the horizontal or vertical placement of open ditches is permitted without written approval from the NCDWQ 401 Wetlands Unit. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NCDWQ 401 Wetlands Unit. Any request for changes to the referenced items above will require submittal of a modification request, with seven copies, and corresponding fees will need to be submitted to the NCDWQ.

