




STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

January 9, 2006

MEMORANDUM TO: Mr. H. Allen Pope, P.E.  
Division 3 Engineer

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

SUBJECT: Pender County at the Duplin County line; Replace Bridge No.  
63 on SR 1305 over Doctors Creek; State Project Number  
8.2271501; TIP Number B-4224

Attached is the U. S. Army Corps of Engineers Nationwide Permit 23 and the Division of Coastal Management CAMA Permit for the construction of the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

cc: Mr. Art McMillan, P.E.  
Mr. Omar Sultan  
Mr. Jay Bennett, P.E.  
Mr. David Chang, P.E.  
Mr. Randy Garris, P.E.  
Mr. Greg Perfetti, P.E.  
Mr. Njoroge Wainaina  
Mr. Mark Staley  
Mr. Mr. John F. Sullivan, III, FHWA  
Mr. Mason Herndon, Division 3 Environmental Officer

# PROJECT COMMITMENTS

Replacement of Bridge No. 63  
On SR 1305 over Doctors Creek  
Pender County at the Duplin County line  
Federal-Aid No. BRZ-1305(2)  
State Project No. 8.2271501  
T.I.P. No. B-4224

## Commitments Developed Through Project Development and Design

*Hydraulics Unit, Roadside Environmental Unit, Division Three Construction Office, Structure Design Unit*

NCDOT will adhere to the Best Management Practices (BMPs) for "Bridge Demolition and Removal" during the removal of Bridge No. 63.

This reach of Doctors Creek has potential as a travel corridor for anadromous fish. Therefore, an in-stream moratorium will be in effect from February 15 to June 30. The Stream Crossing Guidelines for Anadromous Fish Passage will be implemented, as applicable.

The total time of **road closure** for this project should be held to a minimum due to the 9 mile detour. The contractor should be given incentives to minimize the road closure for the project. The **total project construction time** can be longer, as long as work can be done under traffic.

## Special Commitments Developed During Permitting

### *Division Three*

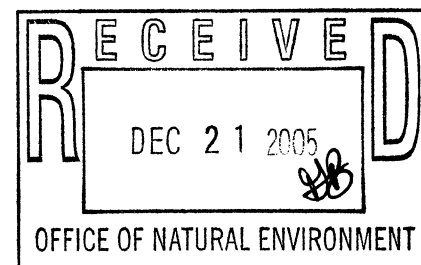
All materials and debris associated with the removal and or construction of the existing and or new bridge, roadway asphalt, existing causeway, and associated materials shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorization from any relevant state, federal, or local authorities are obtained.

Debris resulting from demolition of the existing bridge, including deck components, shall not enter wetlands or waters of the State, even temporarily.

The Bridge shall be constructed using top down construction methodologies.

Pilings from the existing bridge, as well as any remnant pilings from previous bridges shall be removed in their entirety. In the event that a piling breaks during the removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the waterbody if prior approval is received from DCM

**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT  
P.O. Box 1890  
Wilmington, North Carolina 28402**



**Action ID:** 200300882    **TIP No.** B-4224    **State Project No.** 8.2271501    **County:** Duplin & Pender

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

**Property Owner:** Gregory J. Thorpe, Ph.D  
**Address:** Environmental Management Director, PDEA  
N.C. Department of Transportation  
1548 Mail Service Center  
Raleigh, NC 27699-1548

**Telephone Number:** (910) 733-3141

**Size and Location of project (waterway, road name/number, town, etc.):** Bridge No. 63 on SR 1305 (Doctors Creek Road) and SR 1155 (Shaw Road) over Doctors Creek, Pender and Duplin County, North Carolina.

**Description of Activity:** Discharge of fill material permanently impacting a total of 0.32 acres of waters of the United States, including wetlands, for the construction of TIP Project No. B-4224 that will replace Bridge No. 63 on SR 1305 (Doctors Creek Road) in Pender County and SR 1155 (Shaw Road) in Duplin County over Doctors Creek as described in the NCDOT letters dated October 24, 2005 and November 14, 2005. Bridge No. 63 is 121 feet long and is composed of precast concrete caps on timber piles. It will be replaced, using top down construction methods, with a new bridge in its existing location and elevation. The proposed bridge will be 145 ft long with 33 feet of clear roadway and two 11-foot travel lanes. Traffic will be maintained on existing secondary roads during construction. Work associated with the proposed project shall be accomplished in accordance with the attached special conditions.

**Applicable Law:**       X   Section 404 (Clean Water Act, 33 U.S.C. 1344)  
                                     Section 10 (River and Harbor Act of 1899)  
**Authorization:**       23   Nationwide Permit Number  
                                     Regional General Permit Number

Your work is authorized by this Regional General (RGP) or Nationwide (NWP) Permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. If your activity is subject to Section 404 (if Section 404 block above is checked), before beginning work you must also receive a Section 401 water quality certification from the N.C. Division of Environmental Management, telephone (919) 733-1786. For any activity within the twenty coastal counties, before beginning work you must contact the N.C. Division of Coastal Management, telephone (919) 733-2293.

Please read and carefully comply with the attached conditions of the RGP or NWP. Any violation of the conditions of the RGP or NWP referenced above may subject the permittee to a stop work order, a restoration order, and/or appropriate legal action.

This Department of the Army RGP or NWP verification does not relieve the permittee of the responsibility to obtain any other required Federal, State, or local approvals/permits. The permittee may need to contact appropriate State and local agencies before beginning work.

**Action ID:** 200300882    **TIP No.** B-4224    **State Project No.** 8.2271501    **County:** Duplin & Pender

This verification will remain valid until 18 March 2007 unless the nationwide authorization is modified, reissued or revoked. If, prior to 18 March 2007 the nationwide permit authorization is reissued and/or modified, this verification will remain valid until 18 March 2007, provided it complies with all modifications. 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.

If there are any questions regarding this authorization or any of the conditions of the RGP or NWP, please contact Mr. Dave Timpy of the Corps Regulatory Office in Wilmington at the phone number specified below.

**Date** December 21, 2005

**Corps Regulatory Official** \_\_\_\_\_ **Telephone No.** (910) 251-4634

CF: NCDOT Division 3, ATTN Mason Herndon.

SPECIAL CONDITIONS  
TIP Project No. B-4224  
Action ID 200300882

COMPLIANCE WITH PLANS

1. All work must be performed in strict compliance with the plans attached to the NCDOT letters dated October 24, 2005 and November 14, 2005, which are authorized by this permit. Any modification to the authorized permit plans must be approved by the USACE prior to implementation.

COMPLIANCE WITH SPECIAL CONDITIONS

2. Failure to institute and carry out the details of the following special conditions, below, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

CONSTRUCTION PLANS

3. The permittee will ensure that the construction design plans for this project do not deviate from the authorized permit plans. Written verification shall be provided that the final construction plans comply with the authorized permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Wilmington Regulatory Field Office prior to any active construction in waters or wetlands.

PRECONSTRUCTION MEETING

4. The permittee shall schedule a pre-construction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Wilmington Regulatory Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The permittee shall provide the USACE, Wilmington Regulatory Field Office, NCDOT Regulatory Project Manager, with a copy of the final construction plans at least two weeks prior to the pre-construction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The permittee shall notify the Corps of Engineers Project Manager a minimum of thirty (30) days in advance of the scheduled meeting in order to provide that individual with ample opportunity to schedule and participate in the required meeting.

CONTRACTOR COMPLIANCE

5. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, and any authorized modifications. A copy of this permit including the authorized plans referenced in Special Condition (1) and authorized modifications, including all conditions, shall be available at the project site during construction and maintenance of this project.

ACTIVITIES **NOT** AUTHORIZED

6. Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, or shall any activities take place that cause the degradation of waters or wetlands. In addition, except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within, into, or out of waters or wetlands or to reduce the reach of waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material or construction equipment within waters or wetlands outside the permitted area.

#### BORROW AND WASTE

7. To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the permittee has that information. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. All jurisdictional wetland lines on borrow and waste sites shall be verified by the Corps of Engineers and shown on the approved reclamation plans. The permittee shall ensure that all such areas comply with the **preceding condition** of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the **preceding condition**. All information will be available to the USACE upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

#### REPORTING OF VIOLATIONS

8. The permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act in writing to the Wilmington District, U. S Army Corps of Engineers, within 24 hours of the permittee's discovery of the violation.

#### SEDIMENTATION AND EROSION CONTROL MEASURES

9. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands. The permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.

#### MORATORIUM

10. A moratorium on all work in the waters of Doctors Creek and its tributaries will be in effect during construction of this project from February 15 to June 30<sup>th</sup> of any year to protect anadromous fish spawning.

#### COMPENSATORY MITIGATION

11. Compensatory mitigation for the unavoidable impacts to 0.32 acres of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated September 20, 2005 from William D. Gilmore, EEP Director. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide 0.64 acres of restoration equivalent riverine wetlands in the Cape Fear River basin (Hydrologic Cataloging Unit 03030007) by one year of the date of this permit. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to the EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.

### **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 jurisdictional determination issued for this project on **June 23, 2003**. Action ID 2003000882.

Permit Number: 200300082/NWP23

Permittee: NCDOT/B-4224

Issuance: December 21, 2005

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

**ATTN: MR DAVID TIMPY  
US ARMY COE/WILMINGTON DISTRICT  
WILMINGTON REGULATORY FIELD OFFICE  
POST OFFICE BOX 1890  
WILMINGTON, NORTH CAROLINA 28402-1890**

Please note that your permitted activity is subject to a compliance inspection by an 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 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



**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

\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 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  $\frac{1}{4}$ -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  $\frac{1}{3}$ -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 NWP 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 NWP 7 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 NWP 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 NWP 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 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 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 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 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

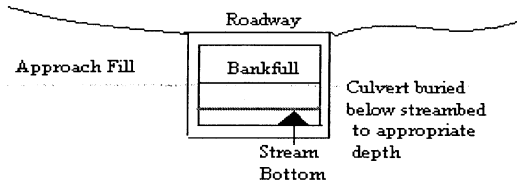
a. Individual or multiple NWPs may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).

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, NWPs 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

Approved: 19 August 2002

OMB No.: 0710-0012

Expires: 31 August 2005

The Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0710-0012), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR APPLICATION TO THE ABOVE ADDRESS. RETURN COMPLETED APPLICATION TO THE ADDRESS SHOWN ON THE APPLICATION INSTRUCTION SHEET.

**U.S. ARMY CORPS OF ENGINEERS  
CUSTOMER SERVICE SURVEY - REGULATORY PROGRAM**

We at the U.S. Army Corps of Engineers Regulatory Branch are committed to improving service to our customers and would like to know how well we have been doing. Who are our customers? You are our *customers* if you submitted a permit application, requested a jurisdictional determination or wetland delineation, or scheduled a pre-application meeting with us. *Other customers* include those of you who receive our Public Notice and/or commented on a particular project or our work in general, because of your interest in the Regulatory Program. To identify how we can better serve you, we need your help. Please take the time to fill out this brief survey and mail it back to us. Your honest opinions will help us determine areas in which we need to improve. For each question, please indicate the level of service you received by marking the appropriate number on a scale from 1-5, with 1 being low (dissatisfied) and 5 being high (very satisfied). If the question does not apply to you, simply mark N/A. Thank you for your time and comments! Response to this survey is VOLUNTARY. If you choose not to respond, it will not affect any

I. FOR APPLICANTS & OTHERS REQUIRING AUTHORIZATIONS	LOW SATISFACTION			HIGH SATISFACTION		
	1	2	3	4	5	NA
1. Do you think you received your Corps permit decision in a reasonable amount of time?	1	2	3	4	5	NA
2. Do you think you received your Corps jurisdictional determination in a reasonable amount of time?	1	2	3	4	5	NA
3. If we recommended/required project changes/modifications to reduce impacts, did we clearly explain the reasons why?	1	2	3	4	5	NA
4. If we recommended/required project changes/modifications to reduce impacts, did the changes seem reasonable to you?	1	2	3	4	5	NA
5. If we denied your permit, did we clearly explain the reasons why?	1	2	3	4	5	NA
6. For enforcement cases, did our office clearly and professionally explain the basis for the enforcement action (e.g., what work we believe you performed without authorization)?	1	2	3	4	5	NA
7. For enforcement cases, did our office include options for resolution?	1	2	3	4	5	NA
<b>II. FOR "OTHER" CUSTOMERS</b>						
1. For permitted actions, was the permit effective in achieving appropriate protection/mitigation for impacts to aquatic resources?	1	2	3	4	5	NA
2. For enforcement actions, did the Corps require appropriate compensation/restoration for impacts to aquatic resources?	1	2	3	4	5	NA
<b>III. FOR APPLICANTS &amp; "OTHER" CUSTOMERS</b>						
1. Did the Corps representative act professionally and treat you with courtesy?	1	2	3	4	5	NA
2. Did the Corps provide sufficient information to allow you to complete an application form, comment on a public notice, or otherwise evaluate our work?	1	2	3	4	5	NA
3. Did we respond to your letters and telephone calls in a reasonable amount of time?	1	2	3	4	5	NA
4. Did the Corps representative answer your questions clearly, giving you accurate information about our Regulatory Program?	1	2	3	4	5	NA
5. What is your OVERALL rating of the level of service provided by the Corps of Engineers Regulatory Program?	1	2	3	4	5	NA

Note: DATA FROM THIS QUESTIONNAIRE WILL BE USED BY THE DISTRICT TO IMPROVE SERVICE. ALSO, INFORMATION WILL BE TABULATED NATIONALLY BY SERVICE AREA. RESPONDENTS WILL NOT BE IDENTIFIED BY NAME OR ORGANIZATION FOR ANY REPORT DERIVED FROM THIS SURVEY.

PLEASE COMPLETE THE FOLLOWING QUESTIONS BY GIVING US ANY COMMENTS OR SUGGESTIONS FOR HOW WE CAN IMPROVE.

Please indicate the nature of your business (If applicable, check more than one):

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Property developer          | <input type="checkbox"/> Flood/Water Control District | <input type="checkbox"/> Sand & Gravel   |
| <input type="checkbox"/> Public Agency Applicant     | <input type="checkbox"/> Consultant                   | <input type="checkbox"/> Law Office      |
| <input type="checkbox"/> Civic or Trade Organization | <input type="checkbox"/> Farming/Ranching             | <input type="checkbox"/> Silviculture    |
| <input type="checkbox"/> Member of Legislature       | <input type="checkbox"/> Public Agency                | <input type="checkbox"/> Mining          |
| <input type="checkbox"/> Federal/State/Local         | <input type="checkbox"/> Personal/Private Project     | <input type="checkbox"/> Media           |
| <input type="checkbox"/> Conservation Organization   | <input type="checkbox"/> Adjacent Property Owner      | <input type="checkbox"/> Native American |
| <input type="checkbox"/> Other (describe): _____     |   |  |

What Service(s) Did You Seek From the Corps? (If applicable, check more than one):

- |  |  |
|--|--|
| <input type="checkbox"/> General Information                     | <input type="checkbox"/> Jurisdictional/wetland determination          |
| <input type="checkbox"/> Pre-application Consultation            | <input type="checkbox"/> Resolution of                                 |
| <input type="checkbox"/> Nationwide general permit               | <input type="checkbox"/> Regulatory Program presentation               |
| <input type="checkbox"/> Regional or programmatic general permit | <input type="checkbox"/> Commented on Public Notice/permit application |
| <input type="checkbox"/> Standard Individual permit              | <input type="checkbox"/> Other (describe): _____                       |
| <input type="checkbox"/> Letter of Permission                    | _____  |

Which Corps office (District, Division, Headquarters, other ) did you deal with? \_\_\_\_\_

Name of person you contacted in our office (optional): \_\_\_\_\_

Do you have any comments or suggestions on the Regulatory Program?

Information about you (optional):

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone (include area code): \_\_\_\_\_

May we contact you? YES

NO

PRIVACY ACT STATEMENT

Authorities: The government Performance and Results Act of 1993 and Executive Order (EO) 12862, "Setting Customer Service Standards", dated September 11, 1993. Purpose: To determine the quality of services our customers expect, as well as their satisfaction with USACE's existing services. Information provided on this form will be used in evaluating the performance of the Corps Regulatory Program. Routine Uses: This information may be shared with the Office of Management and Budget, members of Congress, and other federal, state, and local government



Permit Class  
NEW

Permit Number  
199-05

STATE OF NORTH CAROLINA  
Department of Environment and Natural Resources  
and  
Coastal Resources Commission

# Permit

for

Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 1598 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in Pender County at Doctor's Creek, Bridge No. 10 on SR 1305  
/ SR 1155 (B-4224) as requested in the permittee's application dated 10/3/05

including the attached one (1) 1/2-size plan drawing dated 6/23/05 and three (3) revised 1/2-size cross section drawings dated 11/7/05 .

This permit, issued on 12/21/05, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

### Bridge No. 10 Replacement (TIP No. B-4224)

- 1) In order to protect anadromous fish in Doctor's Creek, no in-water work shall be conducted from February 15<sup>th</sup> to June 30<sup>th</sup> of any year without prior approval of the NC Division of Coastal Management (DCM), in consultation with the NC Wildlife Resources Commission (WRC).
- 2) The permittee shall implement NCDOT's Stream Crossing Guidelines for Anadromous Fish Passage, except as modified in Condition No. 1 of this permit.
- 3) The NCDOT document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during demolition and construction activities.

**(See attached sheets for Additional Conditions)**

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

### No Expiration Date, pursuant to GS 136-44.7B

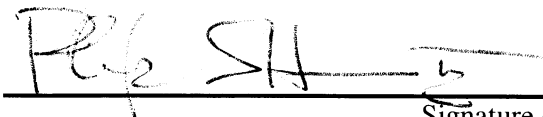
In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



*for* Charles S. Jones, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.



Signature of Permittee

**ADDITIONAL CONDITIONS**

- 4) All materials and debris associated with the removal and/or construction of the existing and/or new bridge, roadway asphalt, existing causeway, and associated materials shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.
- 5) Debris resulting from demolition of the existing bridge, including deck components, shall not enter wetlands or waters of the State, even temporarily.
- 6) The bridge shall be constructed using top down construction methodologies.
- 7) Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body if prior approval is received from DCM.
- 8) Turbidity curtains shall be used to isolate all work areas from Doctor's Creek, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains shall be installed parallel to the banks on each side of the stream. The turbidity curtains shall extend past the construction limits and attach to the silt fences containing the work site. The turbidity curtains shall not fully encircle the work area or extend across Doctor's Creek. The turbidity curtains shall be properly maintained and retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.
- 9) The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized.
- 10) All excavated materials shall be confined above normal high water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 11) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill area indicated on the work plan drawing(s).
- 12) The fill material shall be clean and free of any pollutants except in trace quantities.
- 13) No excavation shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill areas indicated on the workplan drawing(s).
- 14) Placement of riprap shall be limited to the areas as depicted on the attached work plan drawings. The riprap material shall be free from loose dirt or any pollutant. The riprap material shall consist of clean rock or masonry materials, such as but not limited to, granite, marl, or broken concrete.
- 15) Live concrete shall not be allowed to contact waters of the State or water that will enter waters of the State.

ADDITIONAL CONDITIONS

**Sedimentation and Erosion Control**

- 16) The permittee shall follow "Best Management Practices for the Protection of Surface Waters" and shall also implement sedimentation and erosion control measures sufficient to protect aquatic resources.
- 17) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, etc.).
- 18) This project shall conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.
- 19) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

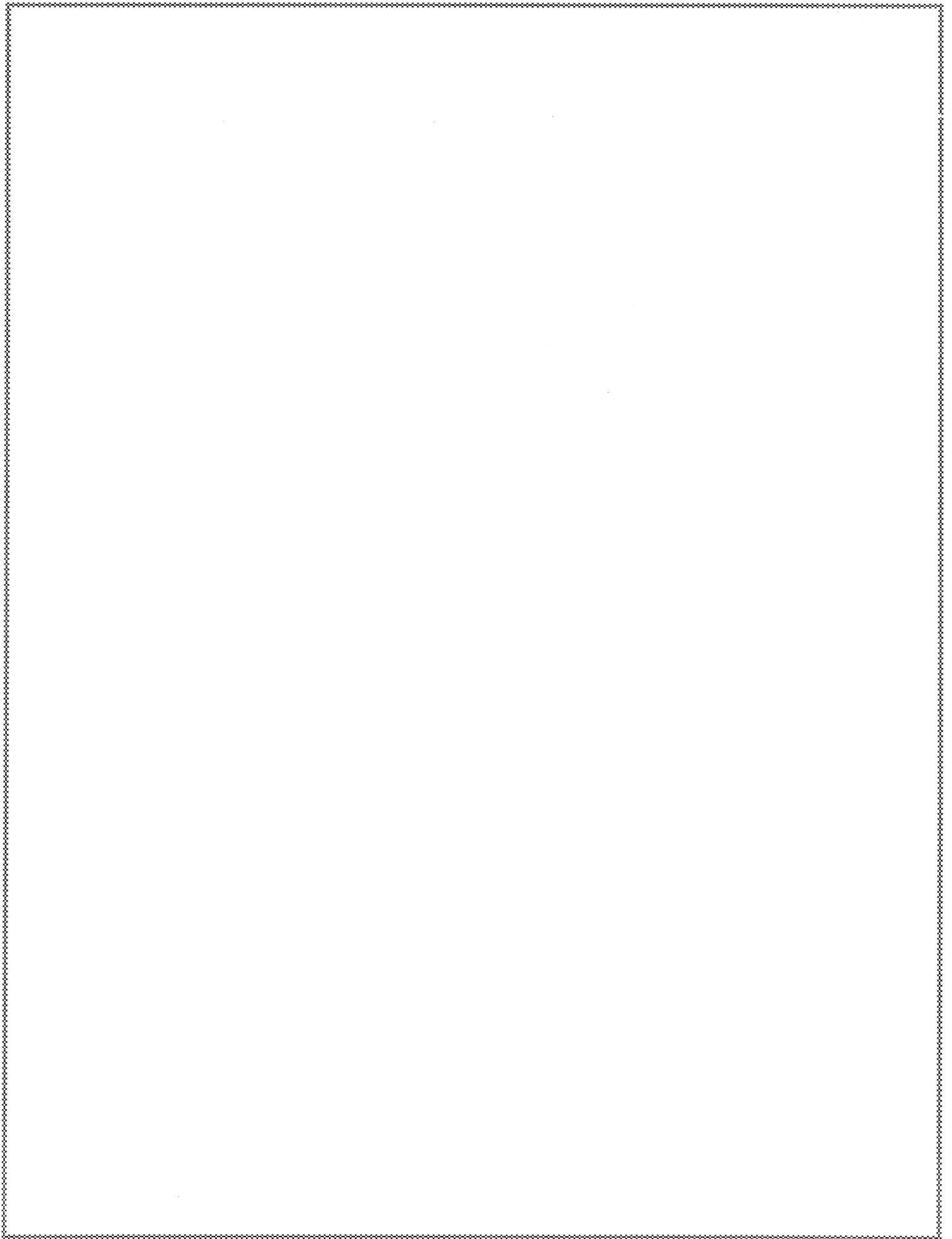
**Mitigation**

**NOTE:** In accordance with the letter of September 20, 2005 from the Ecosystem Enhancement Program (EEP) to NCDOT, the EEP will provide compensatory mitigation consisting of 0.32 acres of riverine wetlands in Cataloging Unit CU 03030007 of the Cape Fear River Basin for unavoidable impacts to 0.32 acres of bottomland hardwood wetlands by this project. In accordance with Section X.A. of the 7/22/03 Memorandum of Agreement (MOA) between the NCDOT, the U.S. Army Corps of Engineers (USACE), and the N.C. Department of Environment and Natural Resources (DENR), construction of the mitigation site(s) to compensate for the wetland impacts of this project will be completed within one year of permit issuance.




**General**

- 20) Any relocation of utility lines that is not already depicted on the attached work plan drawings, or described within the attached permit application, shall require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 21) If it is determined that additional permanent and/or temporary impacts will occur that are not shown on the attached permit drawings, additional authorization from DCM shall be required.
- 22) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.
- 23) The N.C. Division of Water Quality (DWQ) authorized the proposed project under General Water Quality Certification Number 3403 (DWQ Project No. 052002), on 11/2/05. Any violation of the Certification approved by the DWQ shall be considered a violation of this CAMA permit.

**NOTE:** The U.S. Army Corps of Engineers assigned COE Action ID No. 200300882 to the project as a Nationwide Permit Number 23.



7/2/

-  DENOTES FILL IN WETLAND
-  DENOTES EXCAVATION IN WETLAND
-  DENOTES EXISTING EMBANKMENT EXCAVATION

TOP DOWN CONSTRUCTION  
WILL BE UTILIZED DURING CONSTRUCTION  
METHOD II CLEARING

50' 0 50'  
SCALE

B-4224	
RW SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER
PRELIMINARY PLANS DO NOT USE FOR CONSTRUCTION	

BEGIN PROJECT B-4224  
-L- POT STA. 13+00.00

-L- POT STA. 10+00.00

ARMENIUS PIGFORD  
PHYLLIS PIGFORD

BEGIN BRIDGE  
-L- STA. 16+90.00

FROM STA. 14+00 TO 14+50 -L- RT  
STA. 18+50 TO 19+50 -L- LT

END BRIDGE  
-L- STA. 18+35.00

DUPLIN STREET #2205  
LIMITED PARTNERSHIP  
DB 1320 PG 150  
(PARCEL 6 - TRACT 1 & 2)

-L- PC Sta. 21+66.6

END PROJECT B-4224  
-L- POT STA. 22+00.00

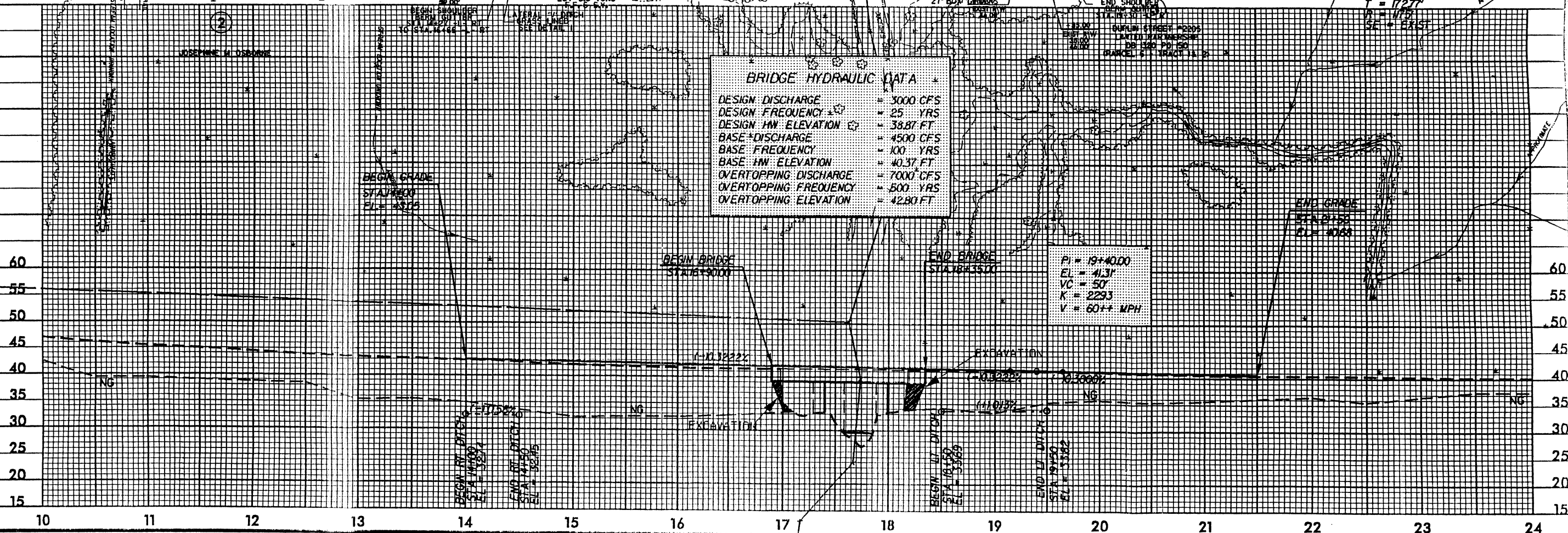
-L-  
PI Sta. = 23+39.38  
Δ = 16° 43' 44.9"  
D = 452' 34.5"  
T = 172.7'  
SE + EXIST

**BRIDGE HYDRAULIC DATA**

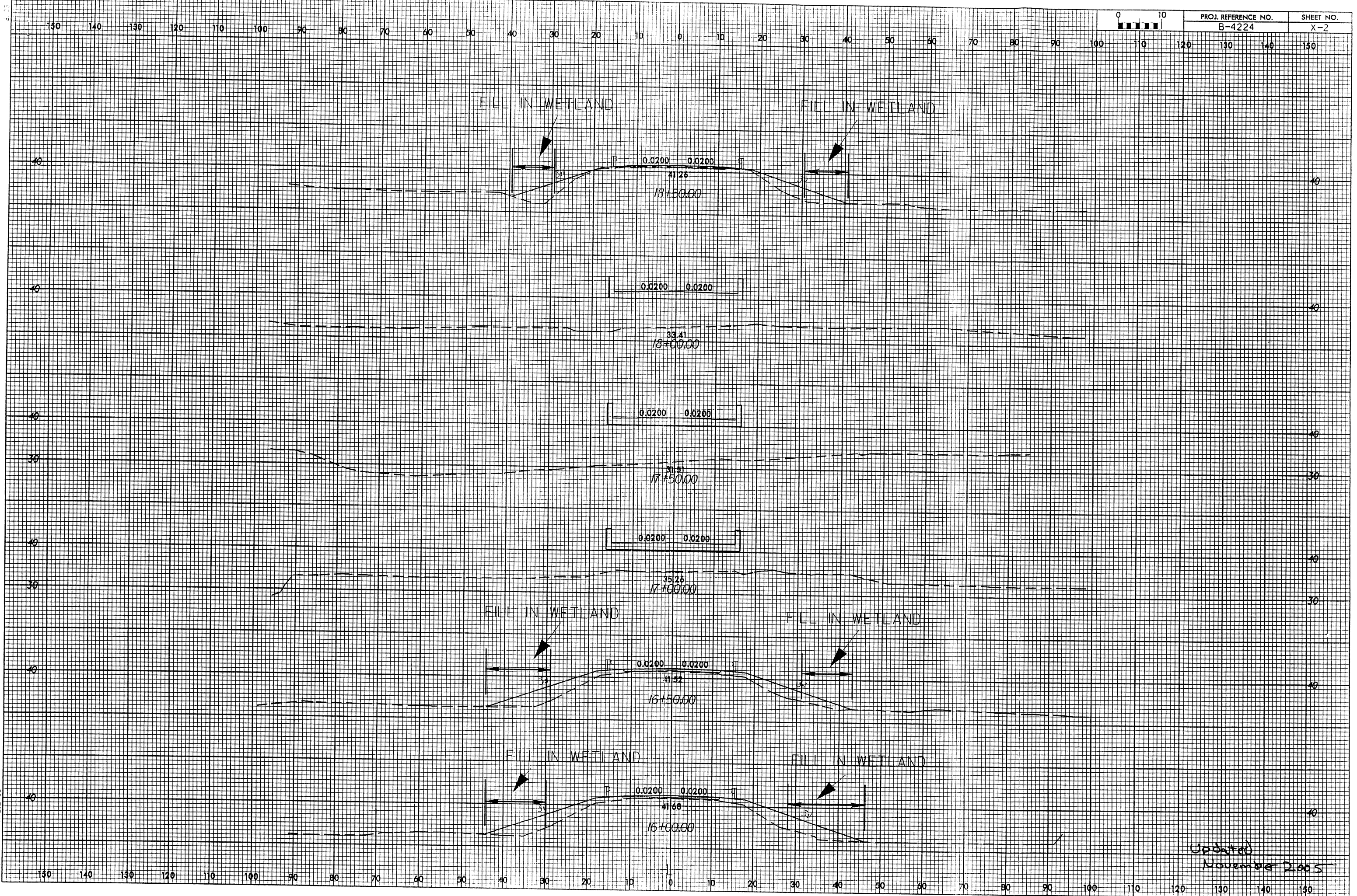
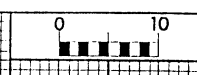
DESIGN DISCHARGE	= 3000 CFS
DESIGN FREQUENCY	= 25 YRS
DESIGN HW ELEVATION	= 38.87 FT
BASE DISCHARGE	= 4500 CFS
BASE FREQUENCY	= 100 YRS
BASE HW ELEVATION	= 40.37 FT
OVERTOPPING DISCHARGE	= 7000 CFS
OVERTOPPING FREQUENCY	= 500 YRS
OVERTOPPING ELEVATION	= 42.80 FT

PI = 19+40.00  
EL = 41.31'  
VC = 50'  
K = 2293  
V = 60+ MPH

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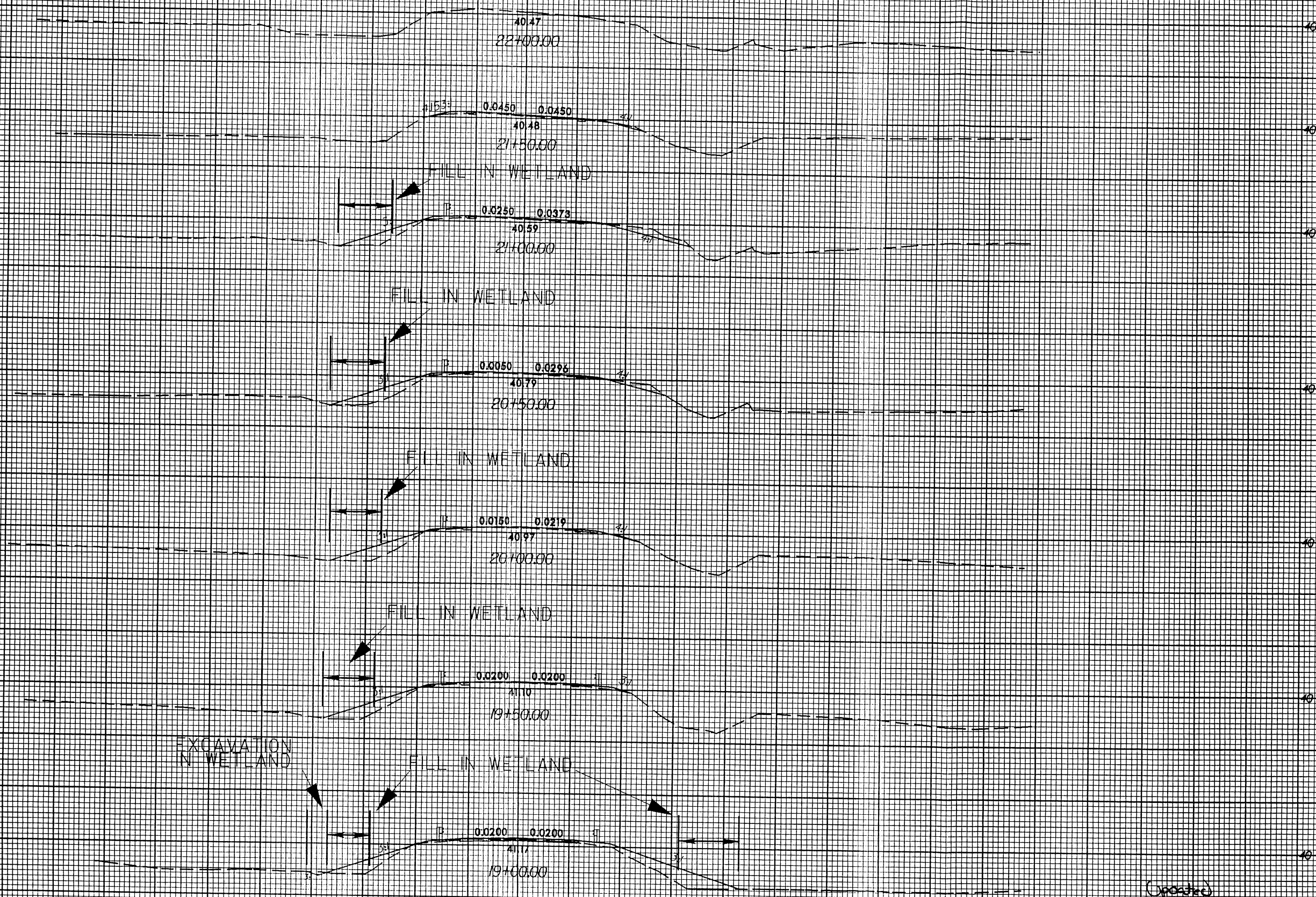






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Updated  
November 2005



Updated  
November 2005

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STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

October 4, 2005

Division of Coastal Management  
Hestron Plaza II  
151-B NC Highway 24  
Morehead City, NC 28557

**ATTENTION:** Mr. Bill Arrington  
District Manager

Dear Mr. Arrington:

**SUBJECT:** Application for CAMA Major Development Permit for the proposed replacement of Bridge No. 10 over Doctor's Creek on SR 1305 and 1155 in Duplin and Pender County, Division 3. Federal Aid No. BRZ-1305(2), \$400 Debit Work Order State Project No. 8.2271501, WBS Number 33568.1.1; TIP No. B-4224.

Please find enclosed the Categorical Exclusion (CE) document, the Natural Resource Technical Report (NRTR), permit drawings, and design plan sheets, MP1 and MP5 forms, EEP Confirmation letter and a copy of postal notifications for Adjacent Riparian Property Owners.

#### PROJECT DESCRIPTION

The North Carolina Department of Transportation (NCDOT) proposes to replace Bridge No. 63 over Doctors Creek on SR 1305 on the Duplin/ Pender County line. The existing bridge will be replaced with a 145-foot long bridge along the existing alignment. The proposed bridge replacement will be a spanning structure, thereby eliminating the piles in the stream channel. The normal water level in the project area is 29.5 feet above msl. During construction, traffic will be detoured along existing area roads. Top down construction will be used. There will be no in water construction between February 15 and June 30 to protect anadromous fish spawning. Total bottomland hardwood wetland impacts are 0.32 acres. No primary nursery areas are located in the project area.

#### PROPOSED IMPACTS

Doctors Creek (DWQ Index No. 18-74-29-3) Class C Sw, and associated wetlands will be impacted by the proposed project. Construction of the proposed project will result in 0.32 acre of impacts consisting of 0.28 acres of fill and 0.04 acres of excavation in bottomland hardwood wetlands. The 0.32 acres of fill in wetlands are due to the widening of the fill slopes resulting from widening of the road. Bridge No. 63 will be replaced with a three span structure, using top down construction.

**MAILING ADDRESS:**  
NC DEPARTMENT OF TRANSPORTATION  
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS  
1598 MAIL SERVICE CENTER  
RALEIGH NC 27699-1598

TELEPHONE: 919-715-1500  
FAX: 919-715-1501

WEBSITE: [WWW.NCDOT.ORG](http://WWW.NCDOT.ORG)

**LOCATION:**  
TRANSPORTATION BUILDING  
1 SOUTH WILMINGTON STREET  
RALEIGH NC

## MITIGATION

**AVOIDANCE AND MINIMIZATION:** The NCDOT is committed to incorporating all reasonable and practicable design features to avoid and minimize jurisdictional impacts, and to provide full compensatory mitigation of all remaining, unavoidable jurisdictional impacts. Avoidance measures were taken during the planning and NEPA compliance stages; minimization measures were incorporated as part of the project design and include:

- Best Management Practices for the Protection of Surface Waters and Bridge Demolition and Removal will be followed.
- Top Down Construction will be used
- No Bents will be placed in the water
- No additional impacts will occur as a result of utility relocations
- Fill slopes will be 3:1 in jurisdictional wetlands (2:1 Fill slopes cannot be stabilized in the sandy soils that are in the project area)
- No Mechanized clearing will be used outside of the cut/fill limits (Method II)
- Rip rap has been added at the pipe outlets around Station 16+00 to prevent any scour

The Department has avoided and minimized impacts to jurisdictional resources to the greatest extent possible as described above. The remaining, unavoidable impacts to 0.32 acres of jurisdictional wetlands will be offset by compensatory mitigation provided by the EEP program. See attached confirmation letter from EEP.

## BRIDGE DEMOLITION

The super structure of Bridge No. 63 is composed of pre-stressed concrete channels with an asphalt-wearing surface. The substructure is composed of pre-cast concrete caps on timber piles. Bridge components will be removed without dropping any components into Doctor's Creek. In accordance with NCDOT's Best Management Practices for Bridge Demolition and removal for projects that require a CAMA permit, no components of the bridge will be allowed to drop into the water.

All guidelines for bridge demolition and removal will be followed in addition to Best Management Practices for the Protection of Surface Waters and BMP's for Bridge Demolition and Removal.

## FEDERALLY-PROTECTED SPECIES

Plants and animals with federal classifications of Endangered, Threatened, Proposed Endangered, and Proposed Threatened are protected under provisions of Section 7 and Section 9 of the Endangered Species Act of 1973, as amended. As of January 29, 2003, the United States Fish and Wildlife Service lists eleven federally protected species for Pender and Duplin County. Of these species, the American alligator (*Alligator mississippiensis*) is listed threatened due to similarity in appearance and is not subject to Section 7 consultation. There is potential habitat for the manatee and the shortnose sturgeon at this project location, but it is unlikely that either will be encountered. However, NCDOT will commit to adhering to the Fish and Wildlife Service Guidelines for Avoiding Impacts to the West Indian Manatee (see attached Guidelines). A biological conclusion of "No Effect" has been rendered for the West Indian manatee. NCDOT also commits to the above mentioned construction moratorium and adherence to best management practices to avoid

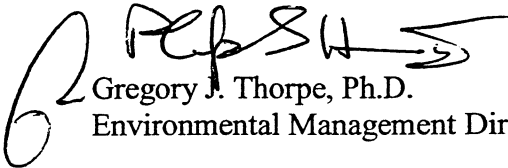
impacts to the shortnose sturgeon. The Biological Conclusion of "May Affect, Not Likely to Adversely Affect" for the shortnose sturgeon remains valid. Biological conclusions of "No Effect" documented in the CE for the remaining species given based on the absence of habitat within the project area remain valid.

### REGULATORY APPROVALS

NCDOT requests that the proposed work be authorized under a Coastal Area Management Act Major Development Permit. We have provided a method of debiting \$475 to be submitted to the DCM for processing the CAMA permit, as noted in the subject line of this application. In a separate application, we are also requesting issuance of a United States Army Corps of Engineers Nationwide Permit 23.

Thank you for your assistance with this project. If you have any questions or need additional information please call Mr. Brett Feulner at (919) 715-1488.

Sincerely,



Gregory J. Thorpe, Ph.D.  
Environmental Management Director, PDEA

GJT/bmf

Cc: w/ attachment

Ms. Cathy Brittingham, NCDCM  
Mr. David Timpy, USACE, Wilmington  
Mr. John Hennessy, DWQ, Raleigh  
Mr. Travis Wilson, NCWRC  
Mr. Gary Jordan, USFWS  
Mr. Ron Sechler, NMFS  
Mr. Mike Street, NCDMF

Mr. Steve Sollod, NCDCM  
Mr. Mason Herndon, DEO  
Mr. H. Allen Pope, P.E., Div. 3 Engineer  
Mr. David Chang, P.E., Hydraulics  
Mr. Greg Perfetti, P.E., Structure Design  
Mr. Mark Staley, Roadside Environmental

w/o attachment

Mr. Jay Bennett, P.E., Roadway Design  
Mr. Omar Sultan, Programming and TIP  
Mr. Art McMillan, P.E., Highway Design  
Mr. Todd Jones, NCDOT External Audit Branch

Ms. Beth Harmon, EEP  
Mr. Bill Goodwin, PDEA  
Mr. Scott McLendon, USACE, Wilmington



September 20, 2005



Mr. Gregory J. Thorpe, Ph.D.  
Environmental Management Director  
Project Development and Environmental Analysis Branch  
North Carolina Department of Transportation  
1548 Mail Service Center  
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

Subject: EEP Mitigation Acceptance Letter:

**B-4224, Bridge 63 over the Doctor's Creek, Duplin and Pender Counties**

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide the compensatory riverine wetland mitigation for the subject project. Based on the information supplied by you in a letter dated September 9, 2005, the impacts are located in CU 03030007 of the Cape Fear River Basin in the Southern Inner Coastal Plain (SICP) and Southern Outer Coastal Plain (SOCP) Eco-Regions, and are as follows:

Riverine Wetland Impacts: 0.32 acre

The subject project is not listed in Exhibit 2 of the Memorandum of Agreement among the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the U. S. Army Corps of Engineers, Wilmington District dated July 22, 2003. Mitigation for this project will be provided in accordance with the above referenced agreement. EEP will commit to implementing sufficient compensatory riverine wetland mitigation to offset the impacts associated with this project by the end of the MOA year in which this project is permitted, in accordance with Section X of the Tri-Party MOA.

If you have any questions or need additional information, please contact Ms. Beth Harmon at 919-715-1929.

Sincerely,

William D. Gilmore, P.E.  
EEP Director

cc: Mr. David Timpy, USACE-Wilmington  
Mr. John Hennessy, Division of Water Quality, Wetlands/401 Unit  
File: B-4224

*Restoring... Enhancing... Protecting Our State*



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
 Armentius Pigford  
 4355 Williard Road  
 Willard, NC 28478

Article Number  
 (Transfer from service label)  
 S Form 3811, August 2001

7003 3110 0000 6901 6540  
 Domestic Return Receipt

102595-02-M-1035

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
 Josephine Osborne  
 2514 Beachwood Drive  
 Tarboro, NC 27886

Article Number  
 (Transfer from service label)  
 S Form 3811, August 2001

7003 3110 0000 6901 6533  
 Domestic Return Receipt

102595-02-M-1035

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *Armentius Pigford*  Addressee  
 B. Received by (Printed Name)  Addressee  
*Armentius Pigford*  Agent  
 C. Date of Delivery  
*8/14/05*  
 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *Josephine Osborne*  Addressee  
 B. Received by (Printed Name)  Addressee  
*Josephine Osborne*  Agent  
 C. Date of Delivery  
*9-14-2005*  
 D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *WW Smith*  Addressee  
 B. Received by (Printed Name)  Addressee  
 C. Date of Delivery  
*9-15-05*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Duplin Street Limited Partnership  
 WW Smith  
 220 S Duplin Street  
 Wallace, NC 24492

2. Article Number

(Transfer from service label)

7003 3110 0000 6901 6458

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1035

# APPLICATION

(To be completed by all applicants)

Wallace

## 1. APPLICANT

a. Landowner:

Name NC Department of Transportation

Address 1598 Mail Service Center

City Raleigh State N.C.

Zip 27699 Day Phone 919-715-1488

Fax 919-715-1501

b. Authorized Agent:

Name Brett Feulner

Address same as above

City \_\_\_\_\_ State N.C.

Zip \_\_\_\_\_ Day Phone \_\_\_\_\_

Fax \_\_\_\_\_

c. Project name (if any) B-4224

*NOTE: Permit will be issued in name of landowner(s), and/or project name.*

## 2. LOCATION OF PROPOSED PROJECT

a. County Pender/Duplin

b. City, town, community or landmark

c. Street address or secondary road number  
SR 1305 Doctor's Creek Road

d. Is proposed work within city limits or planning jurisdiction? \_\_\_\_\_ Yes X No

e. Name of body of water nearest project (e.g. river, creek, sound, bay) Doctor's Creek

## 3. DESCRIPTION AND PLANNED USE OF PROPOSED PROJECT

a. List all development activities you propose (e.g. building a home, motel, marina, bulkhead, pier, and excavation and/or filling activities).

Bridge Construction - Replace existing bridge in the same location. Traffic will be maintained by utilizing an offsite detour.

b. Is the proposed activity maintenance of an existing project, new work, or both? New

c. Will the project be for public, private or commercial use? Public

d. Give a brief description of purpose, use, methods of construction and daily operations of proposed project. If more space is needed, please attach additional pages. Bridge # 63 needs to be replaced due to deterioration of the existing structure (36.3/100 sufficiency rating). Traffic will be maintained by utilizing an offsite detour along existing roads. Projected traffic volume is 1400 VPD for the year 2025.

**4. LAND AND WATER CHARACTERISTICS**

- a. Size of entire tract Two lane travel way within 60' of R/W
- b. Size of individual lot(s) N/A
- c. Approximate elevation of tract above MHW or NWL 35 feet above sea level
- d. Soil type(s) and texture(s) of tract Muckalee loam, mixed alluvial land
- e. Vegetation on tract Loblolly pine, yellow poplar, willow oak, red bay, bayberry, inkberry, gall berry, sweetbay, switchcane
- f. Man-made features now on tract Existing Bridge and approaches
- g. What is the CAMA Land Use Plan land classification of the site? *(Consult the local land use plan.)*  

<u>      </u> Conservation	<u>      </u> Transitional
<u>      </u> Developed	<u>      </u> Community
<u>  X  </u> Rural	<u>      </u> Other
- h. How is the tract zoned by local government? N/A
- i. Is the proposed project consistent with the applicable zoning?   x   Yes        No  
*(Attach zoning compliance certificate, if applicable)*
- j. Has a professional archaeological assessment been done for the tract?   X   Yes        No  
If yes, by whom? NCDOT Staff - see CE
- k. Is the project located in a National Registered Historic District or does it involve a National Register listed or eligible property?  
       Yes   X   No
- l. Are there wetlands on the site?   X   Yes        No  
Coastal (marsh)        Other   X    
If yes, has a delineation been conducted?        Yes  
*(Attach documentation, if available)*
- m. Describe existing wastewater treatment facilities.  
N/A

- n. Describe location and type of discharges to waters of the state. (For example, surface runoff, sanitary wastewater, industrial/commercial effluent, "wash down" and residential discharges.) Surface Runoff
- o. Describe existing drinking water supply source.  
N/A  
Doctor's Creek is classified as Class "C" "Sw"

**5. ADDITIONAL INFORMATION**

In addition to the completed application form, the following items must be submitted:

- **A copy of the deed** (with state application only) or other instrument under which the applicant claims title to the affected properties. If the applicant is not claiming to be the owner of said property, then forward a copy of the deed or other instrument under which the owner claims title, plus written permission from the owner to carry out the project.
- **An accurate, dated work plat** (including plan view and cross-sectional drawings) drawn to scale in black ink on an 8 1/2" by 11" white paper. (Refer to Coastal Resources Commission Rule 7J.0203 for a detailed description.)  
  
**Please note** that original drawings are preferred and only high quality copies will be accepted. Blue-line prints or other larger plats are acceptable only if an adequate number of quality copies are provided by applicant. (Contact the U.S. Army Corps of Engineers regarding that agency's use of larger drawings.) A site or location map is a part of plat requirements and it must be sufficiently detailed to guide agency personnel unfamiliar with the area to the site. Include highway or secondary road (SR) numbers, landmarks, and the like.
- **A Stormwater Certification**, if one is necessary.
- **A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail.** Such landowners must be advised that they have 30 days in which to submit comments

**Form DCM-MP-1**

on the proposed project to the Division of Coastal Management. Upon signing this form, the applicant further certifies that such notice has been provided.

Name See permit drawings  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

- A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

N/A - Existing Bridge constructed in 1966.

- A check for \$250 made payable to the Department of Environment, Health, and Natural Resources (DEHNR) to cover the costs of processing the application.

- A signed AEC hazard notice for projects in oceanfront and inlet areas.

- A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A - 1 to 10) If the project involves the expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

**6. CERTIFICATION AND PERMISSION TO ENTER ON LAND**

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to conditions and restrictions contained in the permit.

I certify that to the best of my knowledge, the proposed activity complies with the State of North Carolina's

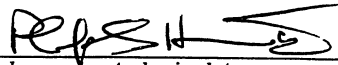
approved Coastal Management Program and will be conducted in a manner consistent with such program.

I certify that I am authorized to grant, and do in fact, grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

This is the 3rd day of October, 192005.

Print Name Philip S. Harris III

Signature   
*Landowner or Authorized Agent*

Please indicate attachments pertaining to your proposed project.

- DCM MP-2 Excavation and Fill Information
- DCM MP-3 Upland Development
- DCM MP-4 Structures Information
- DCM MP-5 Bridges and Culverts
- DCM MP-6 Marina Development

**NOTE:** Please sign and date each attachment in the space provided at the bottom of each form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# BRIDGES AND CULVERTS

Attach this form to Joint Application for CAMA Major Permit, Form DCM-MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project.

## 1. BRIDGES

- a. Public  Private
- b. Type of bridge (construction material)  
Cored Slab, Asphalt and concrete
- c. Water body to be crossed by bridge  
Doctor's Creek
- d. Water depth at the proposed crossing at MLW or NWL  
3.0 feet +/-
- e. Will proposed bridge replace an existing bridge?  
 Yes  No  
If yes,
  - (1) Length of existing bridge 121 feet
  - (2) Width of existing bridge 25.6 feet
  - (3) Navigation clearance underneath existing bridge 10 feet
  - (4) Will all, or a part of, the existing bridge be removed? (Explain) All of the existing bridge will be replaced
- f. Will proposed bridge replace an existing culvert(s)?  
 Yes  No  
If yes,
  - (1) Length of existing culvert
  - (2) Width of existing culvert
  - (3) Height of the top of the existing culvert above the MHW or NWL
  - (4) Will all, or a part of, the existing culvert be removed? (Explain)
- g. Length of proposed bridge 145 feet
- h. Width of proposed bridge 33 feet
- i. Height of proposed bridge above wetlands  
5 to 6 feet

- j. Will the proposed bridge affect existing water flow?  
 Yes  No  
If yes, explain
- k. Navigation clearance underneath proposed bridge  
9.5 feet
- l. Will the proposed bridge affect navigation by reducing or increasing the existing navigable opening?  
 Yes  No  
If yes, explain Navigation clearance will be reduced from 10 feet to 9.5 feet because the new bridge will span the existing channel. In order to span the channel the substructure (27 " box girders) will be slightly thicker
- m. Will the proposed bridge cross wetlands containing no navigable waters?  
 Yes  No  
If yes, explain Additional Roadway Fill for shoulder improvements.
- n. Have you contacted the U.S. Coast Guard concerning their approval?  
 Yes  No  
If yes, please provide record of their action.

**2. CULVERTS**

- a. Water body in which culvert is to be placed \_\_\_\_\_
- b. Number of culverts proposed \_\_\_\_\_
- c. Type of culvert (construction material, style) \_\_\_\_\_
- d. Will proposed culvert replace an existing bridge?  
 Yes  No  
 If yes,  
 (1) Length of existing bridge \_\_\_\_\_  
 (2) Width of existing bridge \_\_\_\_\_  
 (3) Navigation clearance underneath existing bridge \_\_\_\_\_  
 (4) Will all, or a part of, the existing bridge be removed? (Explain) \_\_\_\_\_
- e. Will proposed culvert replace an existing culvert?  
 Yes  No  
 If yes,  
 (1) Length of existing culvert \_\_\_\_\_  
 (2) Width of existing culvert \_\_\_\_\_  
 (3) Height of the top of the existing culvert above the MHW or NWL \_\_\_\_\_  
 (4) Will all, or a part of, the existing culvert be removed? (Explain) \_\_\_\_\_
- f. Length of proposed culvert \_\_\_\_\_
- g. Width of proposed culvert \_\_\_\_\_
- h. Height of the top of the proposed culvert above the MHW or NWL \_\_\_\_\_
- i. Will the proposed culvert affect existing water flow?  
 Yes  No  
 If yes, explain \_\_\_\_\_
- j. Will the proposed culvert affect existing navigation potential?  
 Yes  No  
 If yes, explain \_\_\_\_\_

- a. Will the placement of the proposed bridge or culvert require any excavation below the MHW or NWL?  
 Yes  No  
 If yes,  
 (1) Length of area to be excavated \_\_\_\_\_  
 (2) Width of area to be excavated \_\_\_\_\_  
 (3) Depth of area to be excavated \_\_\_\_\_  
 (4) Amount of material to be excavated in cubic yards \_\_\_\_\_
- b. Will the placement of the proposed bridge or culvert require any excavation within:  
 Coastal Wetlands  SAVs  Other Wetlands  
 If yes,  
 (1) Length of area to be excavated 230 feet  
 (2) Width of area to be excavated 7.5 feet  
 (3) Amount of material to be excavated in cubic yards 64 C.Y. (1,728 ft³)
- c. Will the placement of the proposed bridge or culvert require any highground excavation?  
 Yes  No  
 If yes,  
 (1) Length of area to be excavated 105 feet  
 (2) Width of area to be excavated 15 feet  
 (3) Amount of material to be excavated in cubic yards 300 C.Y. (8,100 ft³)
- d. If the placement of the bridge or culvert involves any excavation, please complete the following:  
 (1) Location of the spoil disposal area  
An upland area to be determined by the contractor and approved by NCDOT  
 (2) Dimensions of spoil disposal area  
Unknown at this point  
 (3) Do you claim title to the disposal area?  
 Yes  No  
 If no, attach a letter granting permission from the owner.  
 (4) Will the disposal area be available for future maintenance?  Yes  No  
 (5) Does the disposal area include any coastal wetlands (marsh), SAVs, or other wetlands?  
 Yes  No  
 If yes, give dimensions if different from (2) above. \_\_\_\_\_  
 (6) Does the disposal area include any area below the MHW or NWL?  Yes  No  
 If yes, give dimension if different from No. 2 above. \_\_\_\_\_
- e. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed below MHW or NWL?  
 Yes  No  
 If yes, \_\_\_\_\_

**3. EXCAVATION AND FILL**

Form DCM-MP-5

- (1) Length of area to be filled \_\_\_\_\_
- (2) Width of area to be filled \_\_\_\_\_
- (3) Purpose of fill \_\_\_\_\_

f. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed within:

\_\_\_\_ Coastal Wetlands \_\_\_\_ SAVs X Other Wetlands

- (1) Length of area to be filled \_\_\_\_\_ 940 feet
- (2) Width of area to be filled \_\_\_\_\_ 13 feet
- (3) Purpose of fill Proposed roadway shoulder improvements

g. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed on highground? X Yes \_\_\_\_ No

If yes,

- (1) Length of area to be filled \_\_\_\_\_ 215 feet
- (2) Width of area to be filled \_\_\_\_\_ 16 feet
- (3) Purpose of fill Proposed roadway shoulder improvements

f. What type of construction equipment will be used (for example, dragline, backhoe or hydraulic dredge)? Heavy highway construction equipment

g. Will wetlands be crossed in transporting equipment to project site? \_\_\_\_ Yes X No

If yes, explain steps that will be taken to lessen environmental impacts. \_\_\_\_\_

If yes, \_\_\_\_\_

h. Will the placement of the proposed bridge or culvert require any shoreline stabilization?

x Yes \_\_\_\_ No

If yes, explain in detail Riprap at end bents

NCDOT - B - 4224

Applicant or Project Name

[Signature]

Signature

10/3/05

Date

4. GENERAL

a. Will the proposed project involve any mitigation? X Yes \_\_\_\_ No

If yes, explain in detail Fill and excavation required for proposed roadway shoulder improvements will require offsite mitigation provided by EEP

b. Will the proposed project require the relocation of any existing utility lines? \_\_\_\_ Yes X No

If yes, explain in detail \_\_\_\_\_

c. Will the proposed project require the construction of any temporary detour structures? \_\_\_\_ Yes X No

If yes, explain in detail \_\_\_\_\_

d. Will the proposed project require any work channels? \_\_\_\_ Yes X No

If yes, complete Form DCM-MP-2

e. How will excavated or fill material be kept on site and erosion controlled? NCDOT Best Management Practices: silt fence, type B silt basins, etc.



North Carolina Department of Environment and Natural Resources  
Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

November 7, 2005

Gregory J. Thorpe, Ph.D., Environmental Management Director  
NC Department of Transportation  
Project Development and Environmental Analysis Branch  
1548 Mail Service Center  
Raleigh, NC, 27699-1548

Dear Mr. Thorpe,

The NC Division of Coastal Management hereby acknowledges receipt of your application for State approval for the replacement and widening of Bridge No. 116 at the crossing of Doctor's Creek on SR 1305 in Pender County, T.I.P. project B-4224. The information submitted October 7, 2005, completed your application and it appears to be adequate for processing at this time. The projected deadline for making a decision is December 20, 2005. An additional 75-day review period is provided by law when such time is necessary to complete the review. If you have not been notified of a final action by the initial deadline stated above, you should consider the review period extended. Under those circumstances, this letter will serve as your notice of an extended review. However, an additional letter will be provided on or about the 75th day.

If this agency does not render a permit decision within 70 days from October 7, 2005, you may request a meeting with the Director of the Division of Coastal Management and permit staff to discuss the status of your project. Such a meeting will be held within five working days from the receipt of your written request and shall include the property owner, developer, and project designer/consultant.

NCGS 113A-119(b) requires that Notice of an application be posted at the location of the proposed development. Enclosed you will find a "Notice of Permit Filing" postcard which must be posted at the proposed development. You should post this notice at a conspicuous point along the roadway where it can be observed from the road. An example would be: nailing the notice card to a telephone pole or tree along the road right-of-way near the project. Failure to post this notice could result in an incomplete application.

An onsite inspection will be made, and if additional information is required, you will be contacted by the appropriate State or Federal agency. Please contact me if you have any questions and notify me in writing if you wish to receive a copy of my field report and/or comments from reviewing agencies.

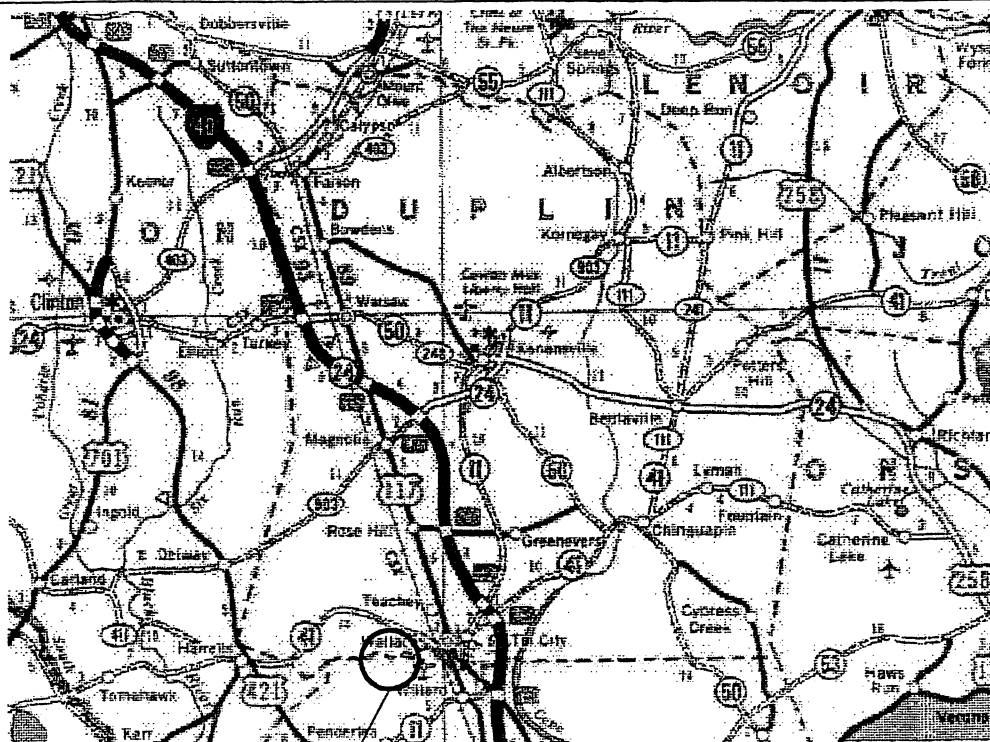
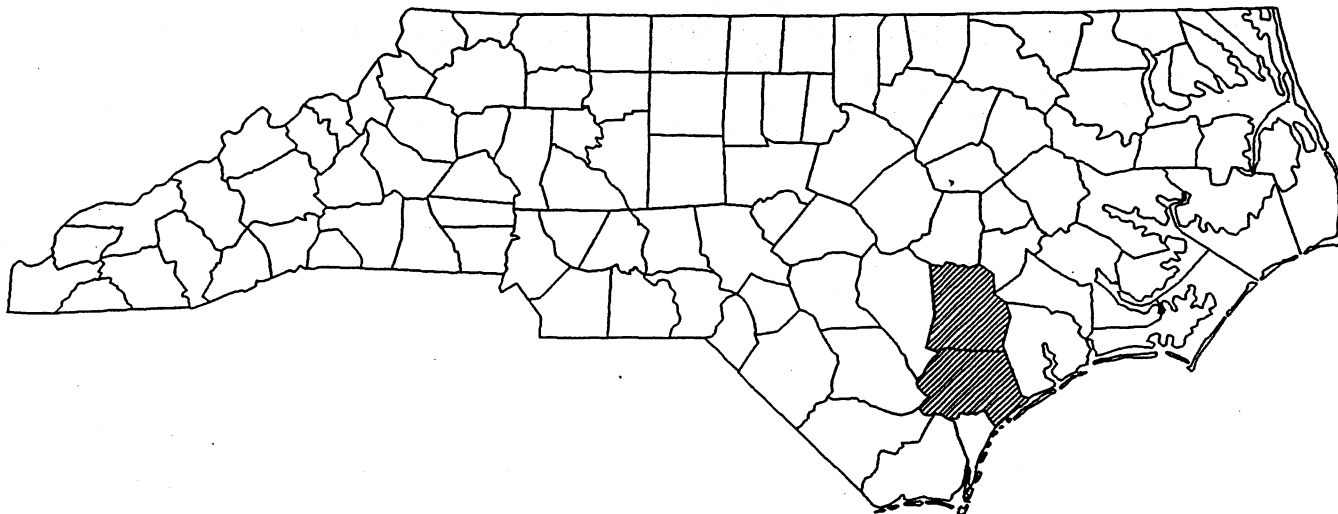
Thank you for the well-prepared application Package and drawings.

Sincerely,

Bill Arrington,  
D.O.T. Project Coordinator, NC Division of Coastal Management  
Enclosure cc: Doug Huggett, Ted Tyndall- Assistant Director

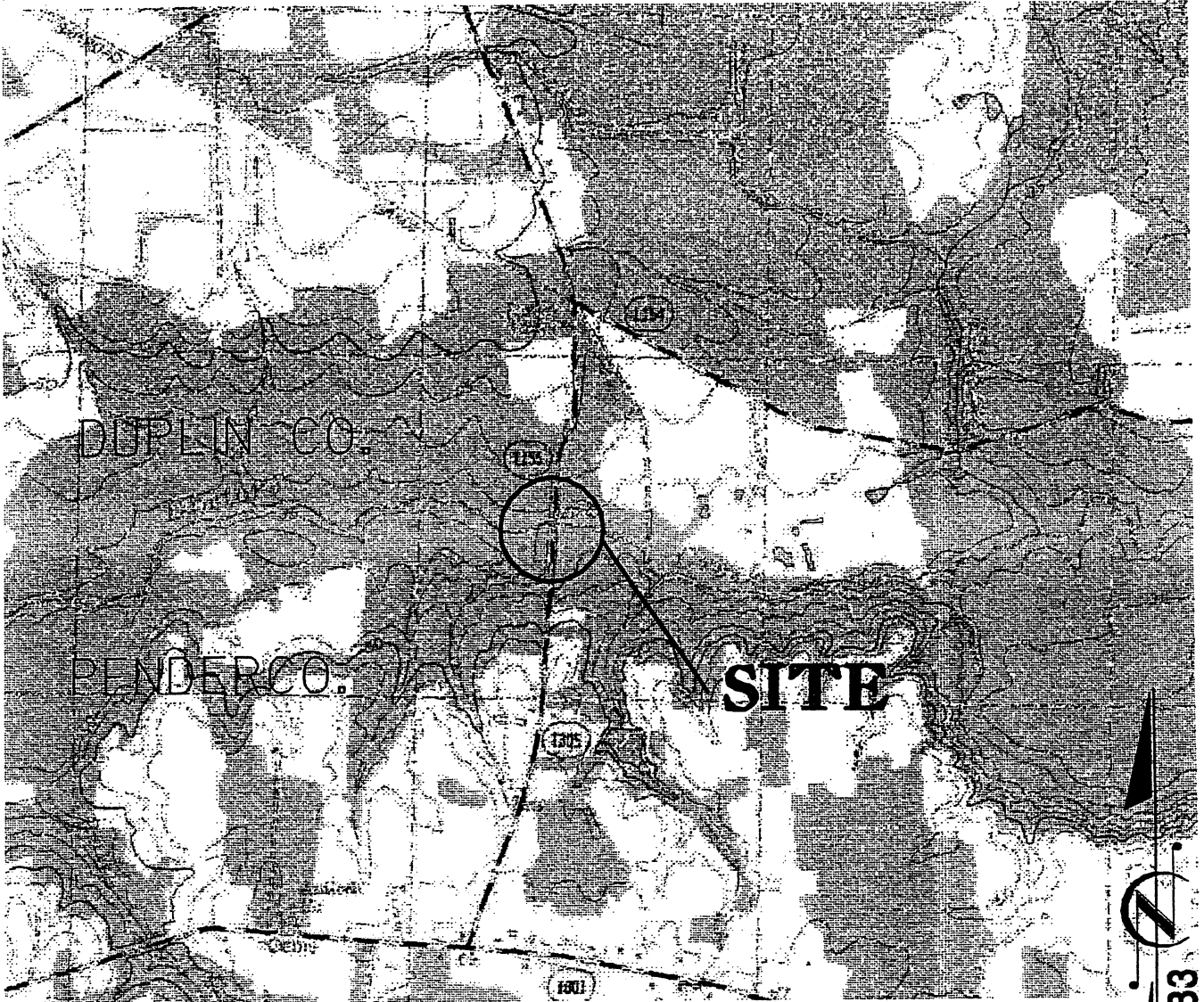
400 Commerce Avenue, Morehead City, North Carolina 28557  
Phone: 252-808-2808 \ FAX: 252-247-3330 \ Internet: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

# NORTH CAROLINA



PROJECT  
VICINITY  
MAPS

NCDOT  
DIVISION OF HIGHWAYS  
DUPLIN/PENDER COUNTY  
PROJECT: 33568.1.1 (B-4224)  
REPLACE BRIDGE # 63 OVER  
DOCTORS CREEK ALONG  
SRI155 AND SR 1305



NOT TO SCALE

# TOPOGRAPHIC MAPS

**NCDOT**  
DIVISION OF HIGHWAYS  
DUPLIN/PENDER COUNTY  
PROJECT: 33568.L1 (B-4224)  
REPLACE BRIDGE # 63 OVER  
DOCTORS CREEK ALONG  
SR1155 AND SR 1305

SHEET 2 OF 9 04/10/05

**WETLAND PERMIT IMPACT SUMMARY**

Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS					SURFACE WATER IMPACTS				
			Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation In Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW Impacts (ac)	Temp. SW Impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)
1	13+74 to 17+00 -L- RT	Bridge & Ditch	0.109	0.000	0.017	0.000	0.000	0.000	0	0	0	
	14+21 to 17+00 -L- LT		0.087	0.000	0.007	0.000	0.000	0.000	0	0	0	
	18+27 to 19+35 -L- RT	Bridge	0.021	0.000	0.006	0.000	0.000	0.000	0	0	0	
	18+27 to 21+35 -L- LT	Ditch	0.066	0.000	0.010	0.000	0.000	0.000	0	0	0	
<b>TOTALS:</b>			<b>0.283</b>		<b>0.040</b>							

**METHOD II CLEARING**

NC DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 DUPLIN-PENDER COUNTY  
 WBS - 33568.1.1 (B-4224)

SHEET **8 of 9** 4/11/2005

# Property Owner Contact Report



TIP # B-4224

Owner Last Name/ Business	Owner First Name	Address	City/Town	State	Zip Code	Contact Relationship	Home Phone	Contacted By	Contact Date	How Contacted	Comments
2 Osborne	Josephine M	2514 Beachwood Drive	Tarboro	NC	27886			Nick Miguez	04/05/04	Letter	
1 Pigford	Armenius	4355 Willard Rd	Willard	NC	28478			Nick Miguez	04/05/04	Letter	
3 Smith	W.W.	220 S Duplin Street	Wallace	NC	24492			Nick Miguez	04/05/04	Letter	

Sheet 9 of 9



# PROJECT COMMITMENTS

**Replacement of Bridge No. 63  
On SR 1305 over Doctors Creek  
Pender County at the Duplin County line  
Federal-Aid No. BRZ-1305(2)  
State Project No. 8.2271501  
T.I.P. No. B-4224**

## Commitments Developed Through Project Development and Design

*Hydraulics Unit, Roadside Environmental Unit, Division Three Construction Office,  
Structure Design Unit*

NCDOT will adhere to the Best Management Practices (BMPs) for "Bridge Demolition and Removal" during the removal of Bridge No. 63.

This reach of Doctors Creek has potential as a travel corridor for anadromous fish. Therefore, an in-stream moratorium will be in effect from February 15 to June 30. The Stream Crossing Guidelines for Anadromous Fish Passage will be implemented, as applicable.

The total time of **road closure** for this project should be held to a minimum due to the 9 mile detour. The contractor should be given incentives to minimize the road closure for the project. The **total project construction time** can be longer, as long as work can be done under traffic.



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

LYNDO TIPPETT  
SECRETARY

November 14, 2005

US Army Corps of Engineers  
PO Box 1890  
Wilmington, North Carolina 28402

ATTENTION: Mr. Dave Timpy  
NCDOT Coordinator

**RECEIVED**  
NOV 17 2005  
DIV. OF COASTAL MANAGEMENT  
RALEIGH

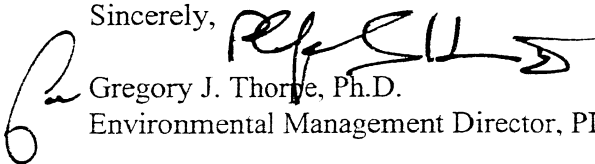
Dear Mr. Timpy:

Subject: **Supplement to the Nationwide 23 Permit Application and CAMA Permit Application**, for the replacement of Bridge No. 63 over Doctors Creek on SR 1728, Duplin and Pender County. Federal Aid Project No. BRZ-1305(2), State Project No. 8.2271501, TIP Project No. B-4224.

On October 24, 2005 and October 4, 2005 respectively, the NCDOT submitted a Nationwide 23 application and a CAMA Major Permit application for the replacement of Bridge No. 63 over Doctors Creek on SR 1728. On November 8, 2005 the NCDOT informed the USACE and DCM that the cross section drawings included in the permit-drawings were not correct and did not match the cross sections shown in the half size plans. Included with this letter are the corrected permit-drawing cross section drawings to replace those included with the permit package. No changes in impacts or project design have occurred.

If you have any questions or need additional information, please call Brett Feulner at 715-1488.

Sincerely,



Gregory J. Thorne, Ph.D.  
Environmental Management Director, PDEA

w/attachment

Mr. John Hennessy, NCDWQ (2 copies)  
Dr. David Chang, P.E., Hydraulics  
Mr. Gary Jordan, USFWS  
Mr. Travis Wilson, NCWRC  
Mr. H. Allen Pope, P.E. Division 3 Engineer  
Mr. Bill Arrington, NCDCM

Mr. Steve Sollod, NCDCM  
Mr. Greg Perfetti, P.E., Structure Design  
Mr. Mark Staley, Roadside Environmental  
Mr. Mason Herndon, Div 3 DEO  
Mr. Ron Sechler, NMFS  
Mr. Michael Street, NCDMF

w/o attachment

Mr. Jay Bennett, P.E., Roadway Design  
Mr. Scott McLendon, USACE, Wilmington

Mr. Art McMillan, P.E., Highway Design  
Mr. Omar Sultan, Programming and TIP

Permit Class  
NEW

Permit Number  
199-05

STATE OF NORTH CAROLINA  
Department of Environment and Natural Resources  
and  
Coastal Resources Commission

# Permit

for

Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

RECEIVED

DEC 27 2005

DIVISION OF HIGHWAYS  
PDEA-OFFICE OF NATURAL ENVIRONMENT

Issued to N.C. Department of Transportation, 1598 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in Pender County at Doctor's Creek, Bridge No. 10 on SR 1305 / SR 1155 (B-4224) as requested in the permittee's application dated 10/3/05

including the attached one (1) 1/2-size plan drawing dated 6/23/05 and three (3) revised 1/2-size cross section drawings dated 11/7/05.

This permit, issued on 12/21/05, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

Bridge No. 10 Replacement (TIP No. B-4224)

- 1) In order to protect anadromous fish in Doctor's Creek, no in-water work shall be conducted from February 15<sup>th</sup> to June 30<sup>th</sup> of any year without prior approval of the NC Division of Coastal Management (DCM), in consultation with the NC Wildlife Resources Commission (WRC).
- 2) The permittee shall implement NCDOT's Stream Crossing Guidelines for Anadromous Fish Passage, except as modified in Condition No. 1 of this permit.
- 3) The NCDOT document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during demolition and construction activities.

(See attached sheets for Additional Conditions)

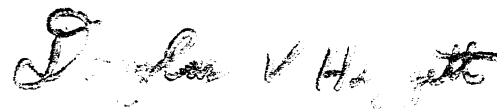
This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



Charles S. Jones, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.

**No Expiration Date, pursuant to GS 136-44.7B**

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signature of Permittee

**ADDITIONAL CONDITIONS**

- 4) All materials and debris associated with the removal and/or construction of the existing and/or new bridge, roadway asphalt, existing causeway, and associated materials shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.
- 5) Debris resulting from demolition of the existing bridge, including deck components, shall not enter wetlands or waters of the State, even temporarily.
- 6) The bridge shall be constructed using top down construction methodologies.
- 7) Pilings from the existing bridge, as well as any remnant pilings from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body if prior approval is received from DCM.
- 8) Turbidity curtains shall be used to isolate all work areas from Doctor's Creek, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains shall be installed parallel to the banks on each side of the stream. The turbidity curtains shall extend past the construction limits and attach to the silt fences containing the work site. The turbidity curtains shall not fully encircle the work area or extend across Doctor's Creek. The turbidity curtains shall be properly maintained and retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.
- 9) The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized.
- 10) All excavated materials shall be confined above normal high water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 11) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill area indicated on the work plan drawing(s).
- 12) The fill material shall be clean and free of any pollutants except in trace quantities.
- 13) No excavation shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill areas indicated on the workplan drawing(s).
- 14) Placement of riprap shall be limited to the areas as depicted on the attached work plan drawings. The riprap material shall be free from loose dirt or any pollutant. The riprap material shall consist of clean rock or masonry materials, such as but not limited to, granite, marl, or broken concrete.
- 15) Live concrete shall not be allowed to contact waters of the State or water that will enter waters of the State.

ADDITIONAL CONDITIONS

**Sedimentation and Erosion Control**

- 16) The permittee shall follow "Best Management Practices for the Protection of Surface Waters" and shall also implement sedimentation and erosion control measures sufficient to protect aquatic resources.
- 17) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, etc.).
- 18) This project shall conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.
- 19) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

**Mitigation**

**NOTE:** In accordance with the letter of September 20, 2005 from the Ecosystem Enhancement Program (EEP) to NCDOT, the EEP will provide compensatory mitigation consisting of 0.32 acres of riverine wetlands in Cataloging Unit CU 03030007 of the Cape Fear River Basin for unavoidable impacts to 0.32 acres of bottomland hardwood wetlands by this project. In accordance with Section X.A. of the 7/22/03 Memorandum of Agreement (MOA) between the NCDOT, the U.S. Army Corps of Engineers (USACE), and the N.C. Department of Environment and Natural Resources (DENR), construction of the mitigation site(s) to compensate for the wetland impacts of this project will be completed within one year of permit issuance.

**General**

- 20) Any relocation of utility lines that is not already depicted on the attached work plan drawings, or described within the attached permit application, shall require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 21) If it is determined that additional permanent and/or temporary impacts will occur that are not shown on the attached permit drawings, additional authorization from DCM shall be required.
- 22) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.
- 23) The N.C. Division of Water Quality (DWQ) authorized the proposed project under General Water Quality Certification Number 3403 (DWQ Project No. 052002), on 11/2/05. Any violation of the Certification approved by the DWQ shall be considered a violation of this CAMA permit.

**NOTE:** The U.S. Army Corps of Engineers assigned COE Action ID No. 200300882 to the project as a Nationwide Permit Number 23.