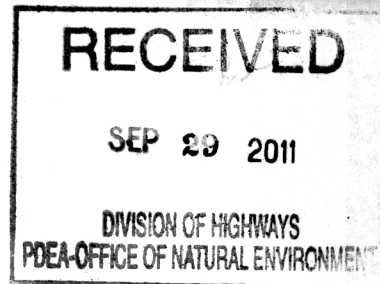




REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
69 DARLINGTON AVENUE
WILMINGTON, NORTH CAROLINA 28403-1343

September 27, 2011



Regulatory Division

Action ID: SAW-1998-21203; TIP No. I-2304A

Dr. Gregory J. Thorpe, Ph.D.
Environmental Management Director, PDEA
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

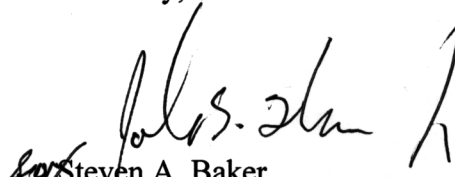
Reference is made to your Department of the Army (DA) permit issued on December 16, 2004, authorizing the discharge of fill material into waters of the United States (jurisdictional waters) for construction of Section A of the Interstate 85 (I-85) Improvements (T.I.P. No. I-2304A), from north of SR 2120 (Exit 81), northeast of Spence, in Rowan County, to north of I-85 Business (Exit 87), southwest of Lexington, in Davidson County, North Carolina. The project is adjacent to jurisdictional waters of the Yadkin River, Potts Creek, and unnamed tributaries of the Yadkin River. Reference also your written request of August 22, 2001, for a modification to your DA permit to authorize changes to impacts to jurisdictional waters as defined by plans included with your request, associated with proposed construction changes for Site 1-8 and 10 of the section AD (formally section AB) of the T.I.P. No. I-2304A project, including additional information for the proposed modification dated September 16, 2011. Revised impacts and compensatory mitigation are included in the attached tables of the project's modified and corrected Water Quality Certification No. 3455 dated September 26, 2011.

We have determined that the proposed changes/modifications referenced in your provided revised plans and the referenced attached tables of the project's modified and corrected Water Quality Certification that define temporary and /or permanent fill impacts to jurisdictional waters are either minor or will be replaced to an adequate extent by the proposed provided compensatory mitigation. Therefore, a supplemental public notice is not necessary. The permit is hereby modified to include the change in impacts to jurisdictional waters as described in the referenced provided construction plans dated August 22, 2001, including additional information for the proposed modification dated September 16, 2011, as recorded in the attached tables of the project's modified and corrected Water Quality Certification No. 3455 dated September 26, 2011. It is understood that all other conditions of the original permit and previous modifications remain applicable, including the permit expiration date of December 31, 2013.

If the permitted work is not completed on or before the date herein specified, the authorization, if not previously revoked or specifically further extended, will cease and become null and void. If additional time is required to complete the project, you should contact this office with a request for an additional time extension.

Should you have questions, please contact Mr. John Thomas, Raleigh Regulatory Field Office, (919) 554-4884 extension 25.

Sincerely,


for Steven A. Baker
Colonel, U.S. Army
District Commander

Blind Copies Furnished:
CESAW-RG
CESAW-RG-R/Thomas
CESAW-RG-R/Compliance file

CC:
NC DOT Div 9
Kent Boyer
375 Silas Creek Parkway
Winston-Salem, NC 27127

Attachment:
NC Department of Environment & Natural Resources Letter



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

September 23, 2011

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


Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for Proposed widening of I-85 from just north of NC 150 to just north of I-85 Business in Davidson County. Federal Aid Project No. NHF-85-3 (164) 80, WBS Division 9. TIP No. 1-2304AD, NCDWQ Project No. 2004-0275 v.7.

Dear Dr. Thorpe:

Attached hereto is a modification of Certification No. 3455 issued to The North Carolina Department of Transportation (NCDOT) dated March 14, 2004 with modifications issued November 22, 2004, September 27, 2010, November 4, 2010, and May 10, 2011.

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

Sincerely,



Coleen H. Sullins
Director

Attachments

cc: John Thomas, US Army Corps of Engineers, Raleigh Field Office
Pat Ivey, PE, Division 9 Engineer
Kent Boyer, Division 9 Environmental Officer
Chris Militischer, Environmental Protection Agency (electronic copy only)
Marla Chambers, NC Wildlife Resources Commission
Jason Elliott, NCDOT, PDEA- Natural Environmental Unit
Wetlands/401 Transportation Permitting Unit
File Copy

Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (NCDWQ) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 0.919 acres of jurisdictional wetlands (Table 1) and 1326 linear feet of jurisdictional streams (Table 2) in Davidson and Rowan Counties. The project shall be constructed pursuant to the modification dated received August 25, 2011 with additional information dated received September 16, 2011. The authorized impacts are as described below:

Table 1: Stream Impacts in the Yadkin-Pee Dee River Basin

| Site | Permanent Fill in Perennial Stream (linear ft) | Temporary Fill in Perennial Stream (linear ft) | Total Stream Impact (linear ft) | Stream Impacts Requiring Mitigation (linear ft) |
|---|--|--|---------------------------------|---|
| Previously permitted impacts at Site 1 | 0 | 0 | 0 | 0 |
| Revised impacts at Site 1 | 14 | 0 | 14 | 0 |
| Previously permitted impacts at Site 2 | 219 | 0 | 0 | 219 |
| Revised impacts at Site 2 | 170 | 25 | 195 | 170 |
| Previously permitted impacts at Site 3 | 216 | 0 | 216 | 216 |
| Revised impacts at Site 3 | 228 | 24 | 252 | 228 |
| Previously permitted impacts at Site 5 | 270 | 0 | 270 | 270 |
| Revised impacts at Site 5 | 260 | 16 | 276 | 260 |
| Previously permitted impacts at Site 7 | 272 | 0 | 272 | 272 |
| Revised impacts at Site 7 | 272 | 10 | 282 | 272 |
| Previously permitted impacts at Site 8a | 179 | 0 | 179 | 0 |
| Revised impacts at Site 8a | 40 | 20 | 60 | 0 |
| Previously permitted impacts at Site 8b | 201 | 0 | 201 | 201 |
| Revised impacts at Site 8b | 142 | 20 | 162 | 0 |
| Previously permitted impacts at Site 10 | 59 | 0 | 59 | 0 |
| Revised impacts at Site 10 | 57 | 28 | 85 | 0 |
| Total Revised Impacts | 1183 | 143 | 1326 | 930 |

Total Stream Impacts for Sites 1-8 and 10 (I2304 AD): 1326 linear feet

Table 2: Riverine Wetland Impacts in the Yadkin-Pee Dee River Basin

| Site | Fill (ac) | Fill (temporary) (ac) | Mechanized Clearing/Excavation (ac) | Total Wetland Impact (ac) |
|------|-----------|-----------------------|-------------------------------------|---------------------------|
| | | | | |

| | | | | |
|--|--------------|----------|--------------|-------------|
| Previously permitted impacts at Site 1 | 0.033 | 0 | 0.019 | 0.05 |
| Revised impacts at Site 1 | 0 | 0 | 0 | 0 |
| Previously permitted impacts at Site 3 | 0.463 | 0 | 0.16 | 0.62 |
| Revised impacts at Site 3 | 0.420 | 0 | 0.150 | 0.57 |
| Previously permitted impacts at Site 4 | 0.071 | 0 | 0.036 | 0.11 |
| Revised impacts at Site 4 | 0.070 | 0 | 0.030 | 0.10 |
| Previously permitted impacts at Site 6 | 0.037 | 0 | 0.005 | 0.04 |
| Revised impacts at Site 6 | 0.037 | 0 | 0.032 | 0.07 |
| Previously permitted impacts at Site 8 | 0.263 | 0 | 0.263 | 0.26 |
| Revised impacts at Site 8 | 0.170 | 0 | 0.010 | 0.18 |
| Total Revised Impacts | 0.697 | 0 | 0.222 | 0.92 |

Total Wetland Impacts for Site 1-8 (I2304 AD): 0.92 acres.

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

This approval is only valid for the purpose and design that you submitted in your modified application dated received August 25, 2011 with additional information dated received September 16, 2011. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated March 14, 2004 with modifications issued November 22, 2001, September 27, 2010 and May 10, 2011 still apply except where superceded by this certification. Should your project change, you are required to notify NCDWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Condition(s) of Certification:

1. All other conditions written into previous Water Quality Certifications dated March 14, 2004 with modifications issued November 22, 2001, September 27, 2010, November 4, 2010, and May 10, 2011 for this project still apply except where they are superseded by this certification.
2. Compensatory mitigation for impacts to 0.920 acres of wetlands is required for the impacts associated with sites 1-8 for I-2304AD. Our records indicate the total amount of wetland mitigation for I2304AC and AD is 2.47 acres, with 1.51 acres required I-2304 AC and 0.96 acres required for I2304 AD. 2.37 acres are impacts to riverine wetlands, and these impacts will be mitigated for on-site. The remaining 0.10 acres are non-riverine. We understand that you have chosen to perform compensatory mitigation for these impacts through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated April 30, 2004 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004
3. Compensatory mitigation for 930 linear feet of impact to streams is required. Our records indicate the total amount of stream mitigation for I2304AC and AD is 2940 linear feet, with 366 linear feet required for site 9 (I2304 AD), 930 linear feet required for sites 1-8 and 10 (I2304 AD), and 1644 linear required for I-2304AC. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated April 30, 2004 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004.
4. Post-construction Stormwater shall be treated using appropriate best management practices (e.g., vegetated conveyances, constructed wetlands, detention ponds, etc.) prior to discharging to surface waters.
5. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams, shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and downstream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWQ for guidance on how to proceed and to determine whether or not a permit modification will be required.
6. If multiple pipes or barrels are required, they shall be designed to mimic natural stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream channel should be avoided. Stream channel widening at the inlet or outlet end of structures typically decreases water velocity causing sediment deposition that requires increased maintenance and disrupts aquatic life passage.
7. Any rip rap in stream beds that has been authorized in this permit modification shall be embedded so that it does not impede aquatic passage.

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

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of

this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

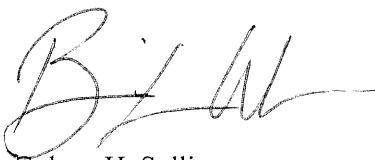
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919)-733-2698, Facsimile: (919)-733-3478

A copy of the petition must also be served on DENR as follows:

Ms. Mary Penny Thompson, General Counsel
Department of Environment and Natural Resources
1601 Mail Service Center
Raleigh, NC 27699-1601

This the 23th day of September 2011

DIVISION OF WATER QUALITY


A Coleen H. Sullins
Director

WQC No. 3455 v. 7

NCDWQ Project No.: _____

County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion

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

Applicant's Certification

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

Signature: _____ Date: _____

Agent's Certification

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

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

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

Signature _____ Registration No. _____

Date _____



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

September 26, 2011

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

Subject: Correction to 401 Water Quality Certification No. 3455 v. 7, NCDWQ Project No. 20040275, v.

7

Dear Dr. Thorpe:

This letter is in regards to the Individual Water Quality Certification No. 3455 v.4 issued November 4, 2010. Please note the changes listed below to wetland impact totals in the text below and table 2. Also please note the change to condition 2.

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (NCDWQ) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 0.91 acres of jurisdictional wetlands (Table 1) and 1326 linear feet of jurisdictional streams (Table 2) in Davidson and Rowan Counties. The project shall be constructed pursuant to the modification dated received August 25, 2011 with additional information dated received September 16, 2011. The authorized impacts are as described below:

Table 2: Riverine Wetland Impacts in the Yadkin-Pee Dee River Basin

| Site | Fill (ac) | Fill (temporary) (ac) | Mechanized Clearing/Excavation (ac) | Total Wetland Impact (ac) |
|--|--------------|-----------------------|-------------------------------------|---------------------------|
| Previously permitted impacts at Site 1 | 0.033 | 0 | 0.019 | 0.05 |
| Revised impacts at Site 1 | 0 | 0 | 0 | 0 |
| Previously permitted impacts at Site 3 | 0.463 | 0 | 0.19 | 0.65 |
| Revised impacts at Site 3 | 0.420 | 0 | 0.150 | 0.57 |
| Previously permitted impacts at Site 4 | 0.071 | 0 | 0.036 | 0.11 |
| Revised impacts at Site 4 | 0.070 | 0 | 0.030 | 0.10 |

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

One
North Carolina
Naturally

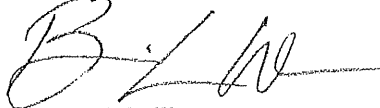
| | | | | |
|--|--------------|----------|--------------|-------------|
| Previously permitted impacts at Site 6 | 0.037 | 0 | 0.026 | 0.06 |
| Revised impacts at Site 6 | 0.030 | 0 | 0.032 | 0.06 |
| Previously permitted impacts at Site 8 | 0.263 | 0 | 0.009 | 0.27 |
| Revised impacts at Site 8 | 0.170 | 0 | 0.010 | 0.18 |
| Total Revised Impacts | 0.690 | 0 | 0.222 | 0.91 |

Total Wetland Impacts for Site 1-8 (I2304 AD): 0.91 acres.

- Compensatory mitigation for impacts to 0.910 acres of wetlands is required for the impacts associated with sites 1-8 for I-2304AD. Our records indicate the total amount of wetland mitigation for I2304AC and AD is 2.47 acres, with 1.51 acres required I-2304 AC and 0.95 acres required for I2304 AD. 2.37 acres are impacts to riverine wetlands, and these impacts will be mitigated for on-site. The remaining 0.10 acres are non-riverine. We understand that you have chosen to perform compensatory mitigation for these impacts through the North Carolina Ecosystem Enhancement Program (EEP), and that the EEP has agreed to implement the mitigation for the project. EEP has indicated in a letter dated April 30, 2004 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the Tri-Party MOA signed on July 22, 2003 and the Dual-Party MOA signed on April 12, 2004

Please keep a copy of this letter with the original certification. If we can be of further assistance, do not hesitate to contact us.

Sincerely,


for Coleen H. Sullins
Director

cc: John Thomas, US Army Corps of Engineers, Raleigh Field Office
Kent Boyer, Division 9 Environmental Officer
Jason Elliott, NCDOT, PDEA- Natural Environmental Unit
File Copy