

PROJECT COMMITMENTS

**Concord-Kannapolis Westside Bypass
From Weddington Road (SR 1431) to Grand Canyon Road (SR 1555)
Cabarrus County
Federal Aid Project No. STP-000S(46)
State Project No. 8.2661601, WBS No. 34408.1.1
TIP Project No. R-2246C**

In addition to the standard Nationwide Permit #14 and #33 Conditions, the general Nationwide Permit Conditions, Section 404 Only Conditions, Regional Conditions, State Consistency Conditions, General Certification Conditions, and Section 401 Conditions of Certification, the following special commitments have been agreed to by the NCDOT. NCDOT shall strictly adhere to North Carolina regulations entitled *Design Standards in Sensitive Watersheds*.

Current status, changes, or additions to the project commitments as shown in the environmental documents for the project are printed in *italics*.

Conditions Developed Through Project Development

Division 7 Construction

NCDOT's Best Management Practices for the Protection of Surface Waters and Sedimentation Control Guidelines shall be strictly enforced during the construction stage of the project to prevent increased sedimentation to off-project surface waters.

The N.C. Geodetic Survey will be contacted by the contractor prior to construction regarding any relocation of existing markers along the project.

Any open burning associated with this project will be in compliance with 15A NCAC 2D.0520.

The disposal of trees removed as a result of this project will be at the discretion of the contractor and will be done in accordance with applicable laws, ordinances, regulations, etc.

These are all standard NCDOT procedures

Design Services -Utilities

If existing water lines will be relocated during the construction of this project, plans for the water line relocation(s) will be submitted to the Department of Environment and Natural Resources (DENR), Public Water Supply Section, Plan Review Branch, prior to construction.

Existing water and sewer lines will need to be relocated during construction. Plans for the water and sewer line relocation will be submitted to DENR prior to the project being let to construction.

Roadway Design, Right of Way, Geotechnical Unit

Right of way acquisition will avoid any hazardous waste sites identified because of environmental liabilities for proper cleanup and remediation if contamination exists. If acquisition of a particular property cannot be avoided, a preliminary site assessment shall be performed by NCDOT's Geotechnical Unit on each site to determine the existence and the extent of any contamination.

During the planning phase of the project, an auto salvage shop was identified as having the potential for soil and/or water contamination. The site is located along Stough Road which falls under Part A of the project. No hazardous sites were identified during the right of way acquisition phase for Part C of the project.

Project Development and Environmental Analysis Branch

NCDOT's Natural Systems' staff will coordinate with the US Army Corps of Engineers (USACE) to delineate the remaining jurisdictional wetlands and surface waters in the Spring of 1999.

The remaining jurisdictional wetlands and streams were delineated in the Spring of 1999. Stream and wetland impacts are included in the permit application for Part C of the project.

NCDOT's Natural Systems' staff will delineate the boundary of the Basic Oak-Hickory Forest (a Priority Natural Area-North Carolina Natural Heritage Program) near the US 29 interchange in the Spring of 1999 to determine the full extent of the project's impact on the natural community.

The proposed US 29 interchange falls under Part B of this project. The boundary for the Basic Oak-Hickory Forest was delineated in the Spring of 1999. The reduced right of way requirements for the recommended single-point diamond interchange avoid the delineated areas.

NCDOT's Natural Systems' staff will consult with Division of Water Quality on the wetland mitigation plan after the completion of the jurisdictional wetlands and surface waters delineation.

The construction of Part C of this project will impact 0.22 acres of wetlands and will require mitigation. Mitigation will be done through the EEP. No mitigation will be required for the stream impacts associated with the construction of Part C of this project.

Conditions Developed Through Permitting

Division 7 Construction

Sediment and erosion control measures shall adhere to the design standards for sensitive watersheds (15A NCAC 4B .0124 (a)-(d)) and be strictly maintained until project completion to avoid impacts to downstream aquatic resources. Temporary or permanent herbaceous vegetation should be planted on all bare soil within 10 days of ground disturbing activities to provide long-term erosion control. Tall fescue should not be used in riparian areas. We encourage NCDOT to utilize onsite vegetation and materials for streambank stabilization when practicable. Erosion control matting should be used in riparian areas, instead of straw mulch.

Culverts that are less than 48-inch diameter should have the floor of the barrel installed 20% of the diameter of the culvert below the level of the stream bottom. Culverts that are 48-inch diameter or larger should be placed with the floor of the barrel approximately 12 inches below the stream bottom to allow natural stream bottom materials to become established in the culvert following installation and to provide aquatic life passage during periods of low flow. This may require increasing the size of the culvert to meet flow conveyance requirements. These measurements must be based on natural thalweg depths. Any perched outlets should be corrected during construction.

The natural dimension, pattern, and profile of the stream above and below the culverts should not be modified by widening the stream channel or changing the depth of the stream.

Grading and backfilling should be minimized, and tree and shrub growth should be retained if possible to ensure long term availability of shoreline cover for fish and wildlife. Backfill materials should be obtained from upland sites.

Riprap should be minimized and installed in a manner so as not to interfere with aquatic life passage during low flow conditions. Riprap placed for bank stabilization should be limited to the stream bank below the high water mark, and vegetation should be used for stabilization above the high water elevation.

Excavation of the stream crossings should be conducted in the dry, if possible. Sandbags, cofferdams, flexible pipe, or other diversion structures should be used to minimize excavation in flowing water.

Rock check dams at culvert outlets should be removed at project completion. These structures could impede movement of aquatic life.

Stormwater management and pre-treatment should be maximized. Stormwater should be directed to buffer areas or retention basins and should not be routed directly into streams. Alternatives to curb and gutter should be explored.

If concrete will be used during construction, work must be accomplished so that wet (uncured) concrete does not contact surface waters. This will lessen the chance of altering the water chemistry and causing a fish kill.

Heavy equipment should be operated from the bank rather than in the stream channel whenever possible in order to minimize sedimentation and reduce the likelihood of introducing other pollutants into the stream. All mechanized equipment operated near surface waters should be inspected and maintained regularly to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids or other toxic materials.

Roadway Design

Sediment and erosion control measures shall adhere to the design standards for sensitive watersheds (15A NCAC 4B .0124 (a)-(d)) and be strictly maintained until project completion to avoid impacts to downstream aquatic resources. Temporary or permanent herbaceous vegetation should be planted on all bare soil within 10 days of ground disturbing activities to provide long-term erosion control. Tall fescue should not be used in riparian areas. We encourage NCDOT to utilize onsite vegetation and materials for streambank stabilization when practicable. Erosion control matting should be used in riparian areas, instead of straw mulch.

Removal of vegetation in riparian areas should be minimized. Native trees and shrubs should be planted along the stream banks to reestablish the riparian zone and to provide long-term erosion control.

Discharging hydro-seeding mixtures and washing out hydro-seeders and other equipment in or adjacent to surface waters is strictly prohibited.

Project Development and Environmental Analysis Branch

Compensatory mitigation shall be the same as that approved by the US Army Corps of Engineers as long as the mitigation required equals a ratio of 1:1 restoration or creation of lost wetland acres as described in 15A NCAC 2H.0506 (h)(6). NC Ecological Enhancement Program (EEP) has agreed to provide all of the compensatory mitigation for these impacts. In accordance with 15A NCAC 2R.0500, this contribution will satisfy NC Division of Water Quality's compensatory mitigation requirements under 15A NCAC 2H.0506(h). Until the EEP receives and clears your payment, wetland fill shall not occur. The payment to EEP shall be sent within two (2) months of issuance of the §404 permit.

Based on the findings of the *Indirect and Cumulative Analysis Nutrient Study Quantitative Assessment of Sediment and Nutrients* for Kannapolis Westside Bypass (R-2246) (September 2003) prepared by Buck Engineering, the anticipated cumulative impacts from the above-referenced project shall be addressed via written agreements between NC Division of Water Quality, City of Concord and Cabarrus County concerning protected stream buffers and on-site stormwater management. NCDOT shall assist in the development and implementation of these measures as appropriate.

400
20

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

Action Id. **200331053, 200331054**

County: Cabarrus

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property owner: North Carolina Department of Transportation

Address: Attn: Gregory J. Thorpe, Director, Project Development and Environmental Analysis Branch, 1548 Mail Service Center, Raleigh, North Carolina 27699-1548

Telephone No.: (919) 733-7844

Size and Location of project (water body, road name/number, town, etc.):

SR 1430 (Crisco Road) from SR 1431 to SR 1555, a distance of 1 mile crossing 3 unnamed tributaries to Coddle Creek and adjacent wetlands west of Concord, TIP No. R-2246C, aka Concord-Kannapolis Westside Bypass Extension

Description of Activity:

Widen 1 mile of SR 1430 from 2 lanes to a 4-lane divided roadway. Replace and extend 3 culverts (Site 1 - 139 feet, Site 2 - 112 feet, Site 3 - 108 feet) on unnamed perennial tributaries. Permanently impact .22 acres and temporarily impact .02 acres of wetland at 3 sites. Utilize temporary rock cofferdams and diversion channels to facilitate culvert installation. SEE ATTACHED SHEET FOR SPECIAL CONDITIONS.

Applicable Law: X Section 404 (Clean Water Act, 33 U.S.C.1344).

(check all that apply) Section 10 (River and Harbor Act of 1899).

Authorization: Regional General Permit Number.

 14 & 33 Nationwide Permit Numbers.

Your work is authorized by this Regional General (RGP) or Nationwide Permit (NWP) 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.

Please read and carefully comply with the attached conditions of the RGP or NWP. Any violation of the conditions of the RGP or the 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.

If there are any questions regarding this authorization or any of the conditions of the General Permit or Nationwide Permit, please contact the Corps Regulatory Official specified below.

Date **October 1, 2003**

Corps Regulatory Official Steven Lund Telephone No. (828) 271-7980

Expiration Date of Verification October 1, 2005

SPECIAL CONDITIONS FOR NATIONWIDE PERMITS 14 & 33
North Carolina Department of Transportation
Action IDs 200331053, 200331054, TIP R-2246C
October 1, 2003

- a. All conditions of the attached North Carolina Wildlife Resources Commission letter of September 18, 2003 are hereby incorporated as special conditions of this permit.

- b. Compensatory mitigation for the .22 acres of permanent wetland impacts associated with the authorized roadway project shall be provided by the North Carolina Division of Ecosystem Enhancement, Ecosystem Enhancement Program (EEP), as outlined in a letter from William D. Gilmore, Manager, dated September 17, 2003. The EEP will provide 2.2 acres of wetland preservation of riverine wetlands at the Drowning Creek Mitigation Site in the Lumber River Basin (HUC 03040203) that has been acquired and protected by the EEP. Pursuant to the Memorandum of Agreement among the North Carolina Department of Environment and Natural Resources, the North Carolina Department of Transportation (NCDOT) and the United States Army Corps of Engineers, Wilmington District signed on July 22, 2003, within 24 months of the date of this permit the EEP will provide .22 acres of restoration of riverine wetlands in the Yadkin River Basin (HUC 03040105) and the wetland preservation at Drowning Creek Mitigation Site will be adjusted accordingly. NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation.

Copy Furnished:

William D. Gilmore, EEP



REPLY TO
ATTENTION OF:

**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
ASHEVILLE REGULATORY FIELD OFFICE
151 PATTON AVENUE, ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006**

Permit Number: 200331053-200331054
Permit Type: NW14 and NW33
Name of County: Cabarrus
Name of Permittee: NCDOT/SR1430/Crisco Road/R-2246C
Date of Issuance: October 1, 2003

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

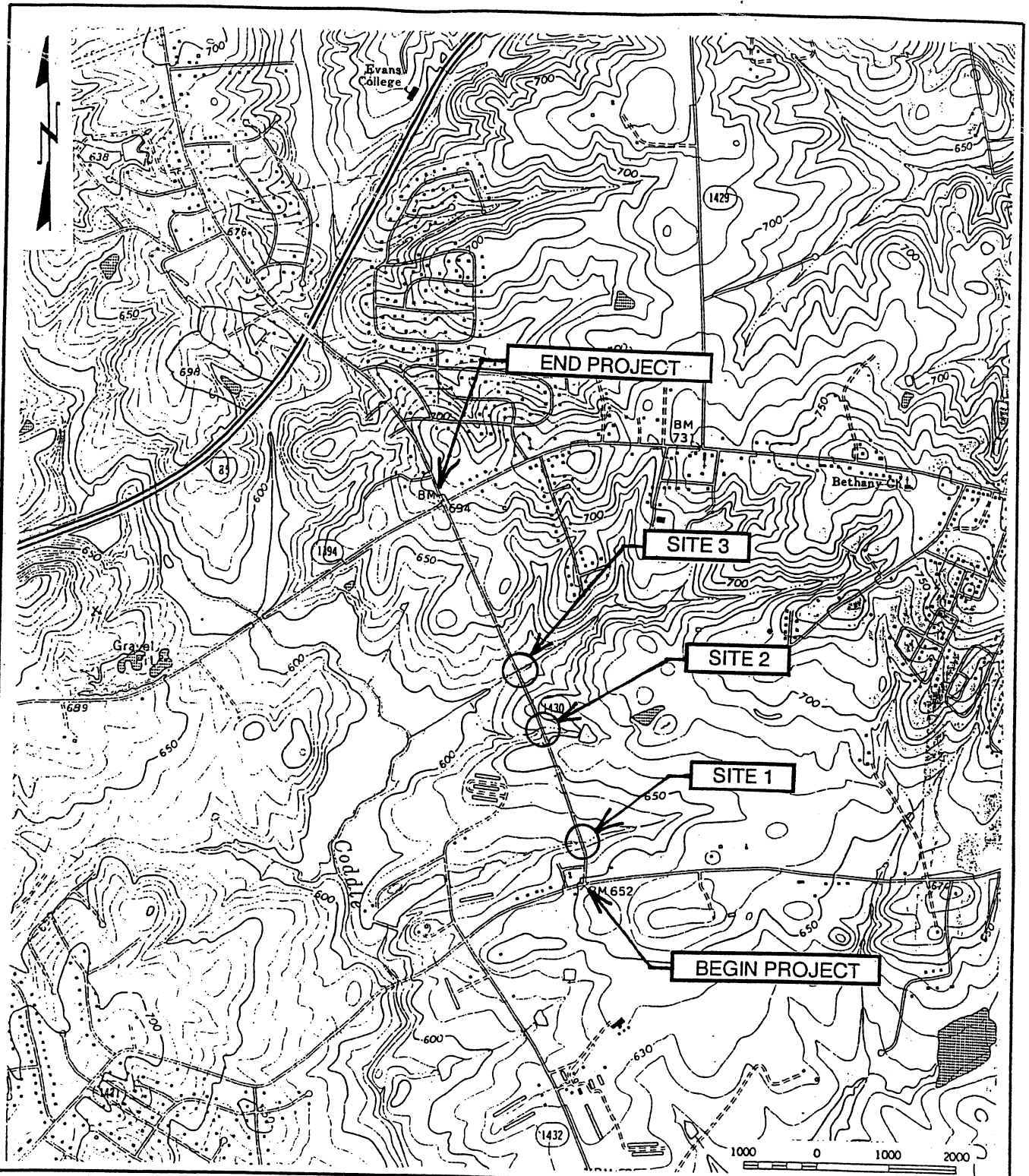
U.S. Army Corps of Engineers
Attention: CESAW-RG-A
151 Patton Avenue, Room 208
Asheville, North Carolina 28801-5006

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 that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

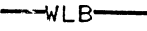

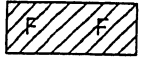
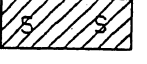
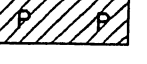
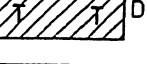
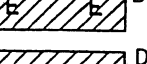
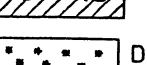
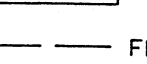

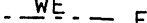




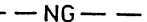

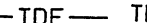
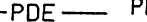


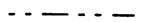
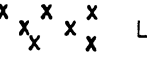


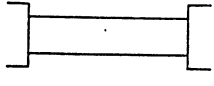
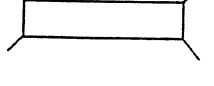

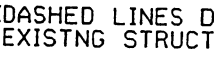








Date



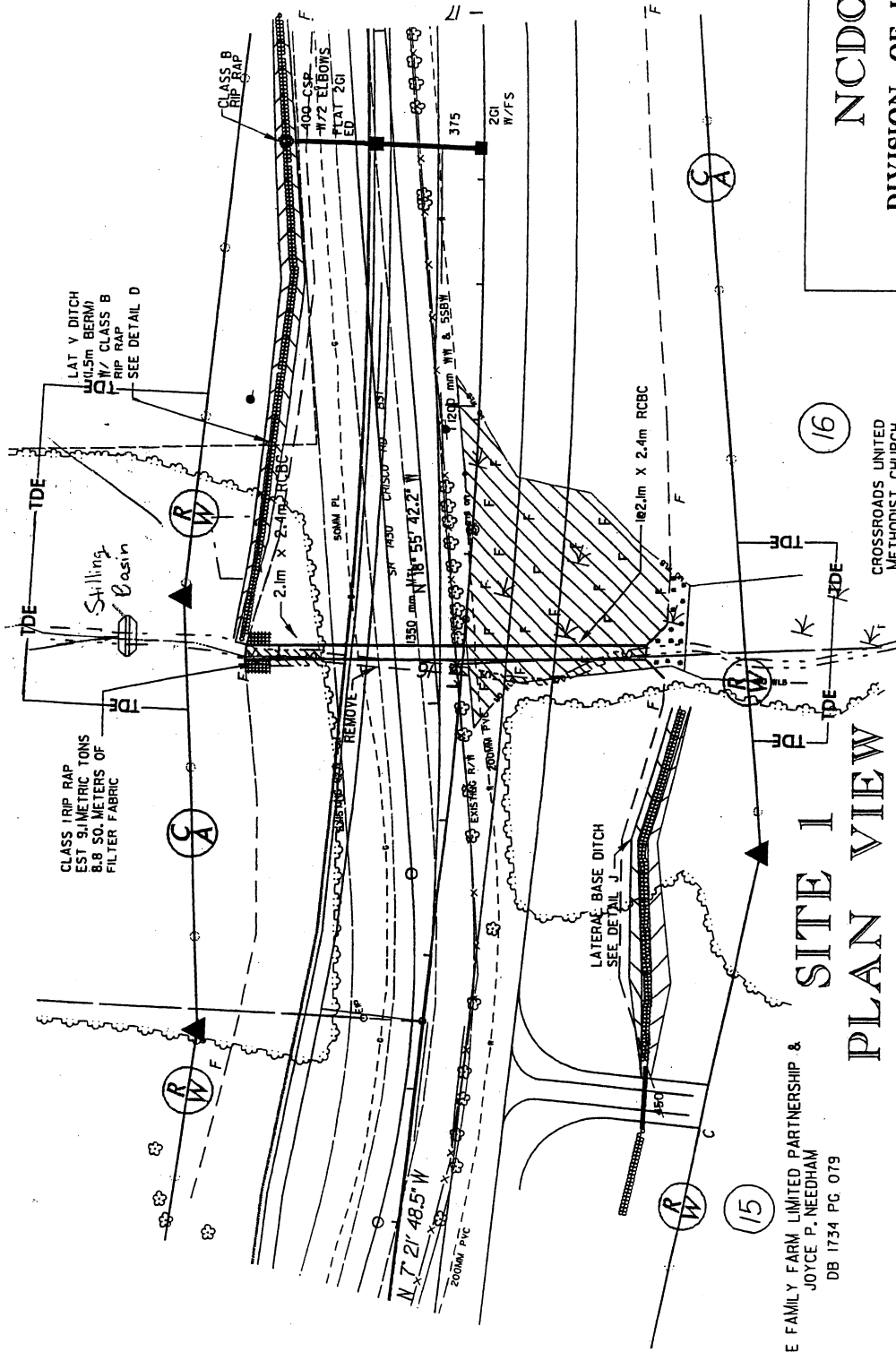
SITE MAP

NCDOT
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 8.2661601 (R-2246C)
 CONCORD-KANNAPOLIS
 WESTSIDE BYP EXT FROM
 SR 1431 TO SR 1555

LEGEND

-  WLB WETLAND BOUNDARY
-  WLB WETLAND
-  DENOTES FILL IN WETLAND
-  DENOTES FILL IN SURFACE WATER
-  DENOTES FILL IN SURFACE WATER (POND)
-  DENOTES TEMPORARY FILL IN WETLAND
-  DENOTES EXCAVATION IN WETLAND
-  DENOTES TEMPORARY FILL IN SURFACE WATER
-  DENOTES MECHANIZED CLEARING
-  FLOW DIRECTION
-  TB TOP OF BANK
-  WE EDGE OF WATER
-  C PROP. LIMIT OF CUT
-  F PROP. LIMIT OF FILL
-  PROP. RIGHT OF WAY
-  NG NATURAL GROUND
-  PL PROPERTY LINE
-  TDE TEMP. DRAINAGE EASEMENT
-  PDE PERMANENT DRAINAGE EASEMENT
-  EAB EXIST. ENDANGERED ANIMAL BOUNDARY
-  EPB EXIST. ENDANGERED PLANT BOUNDARY
-  WATER SURFACE
-  LIVE STAKES
-  BOULDER
-  CORE FIBER ROLLS
-  PROPOSED BRIDGE
-  PROPOSED BOX CULVERT
-  PROPOSED PIPE CULVERT
-  (DASHED LINES DENOTE EXISTING STRUCTURES)
-  SINGLE TREE
-  WOODS LINE
-  DRAINAGE INLET
-  ROOTWAD
-  RIP RAP
-  5 ADJACENT PROPERTY OWNER OR PARCEL NUMBER IF AVAILABLE
-  BZ1 BUFFER ZONE 1
-  BZ2 BUFFER ZONE 2

NCDOT
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 8.2661601 (R-2246C)
 CONCORD-KANNAPOLIS
 WESTSIDE BYP EXT FROM
 SR 1431 TO SR 1555
 SHEET 3 OF 8 10/16/2001




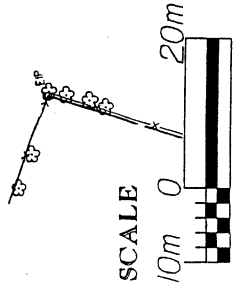
COBLE FAMILY FARM LIMITED PARTNERSHIP &
 JOYCE P. NEEDHAM
 DB 1734 PG 079

NCDOT
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 8.2661601 (R-2246C)
 CONCORD-KANNAPOLIS
 WESTSIDE BYP EXT FROM
 SR 1431 TO SR 1555

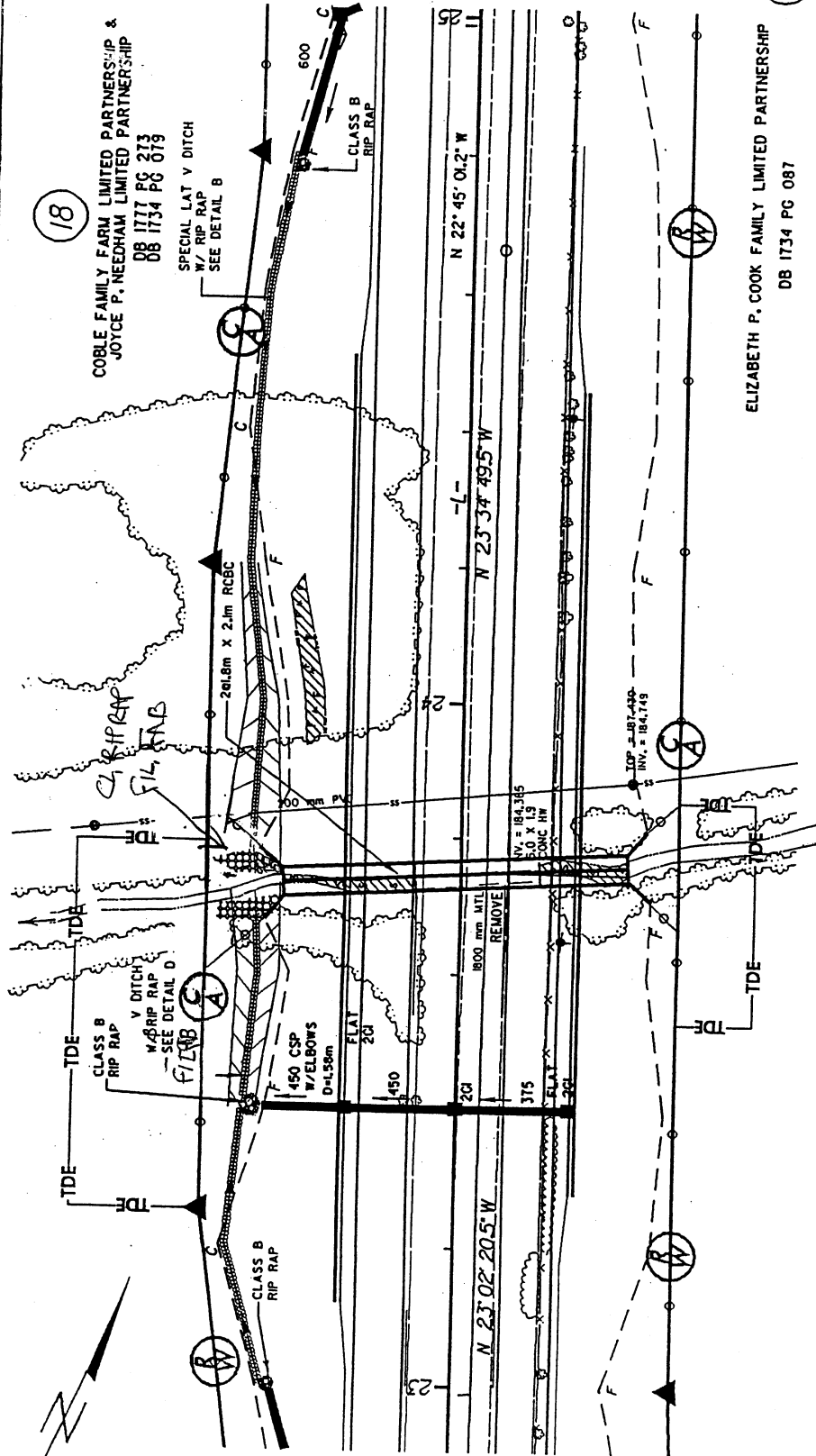
SHEET 4 OF 8 10/7/2002

**SITE 1
 PLAN VIEW**

-  DENOTES FILL IN WETLANDS
-  DENOTES FILL IN SURFACE WATER
-  DENOTES MECHANIZED CLEARING



CROSSROADS UNITED
 METHODIST CHURCH



18

COBLE FAMILY FARM LIMITED PARTNERSHIP &
 JOYCE P. NEEDHAM LIMITED PARTNERSHIP
 DB 1777 PG 273
 DB 1734 PG 079

SPECIAL LAT V DITCH
 W/ RIP RAP
 SEE DETAIL B

17

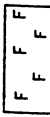

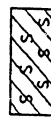
ELIZABETH P. COOK FAMILY LIMITED PARTNERSHIP
 DB 1734 PG 087

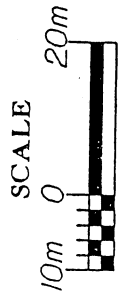
NCDOT
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 8.2661601 (R-2246C)
 CONCORD-KANNAFOLIS
 WESTSIDE BYP EXT FROM
 SR 1431 TO SR 1555

SHEET 6 OF 8

10/16/2001

**SITE 3
 PLAN VIEW**

-  DENOTES FILL IN WETLANDS
-  DENOTES MECHANIZED CLEARING
-  DENOTES FILL IN SURFACE WATER

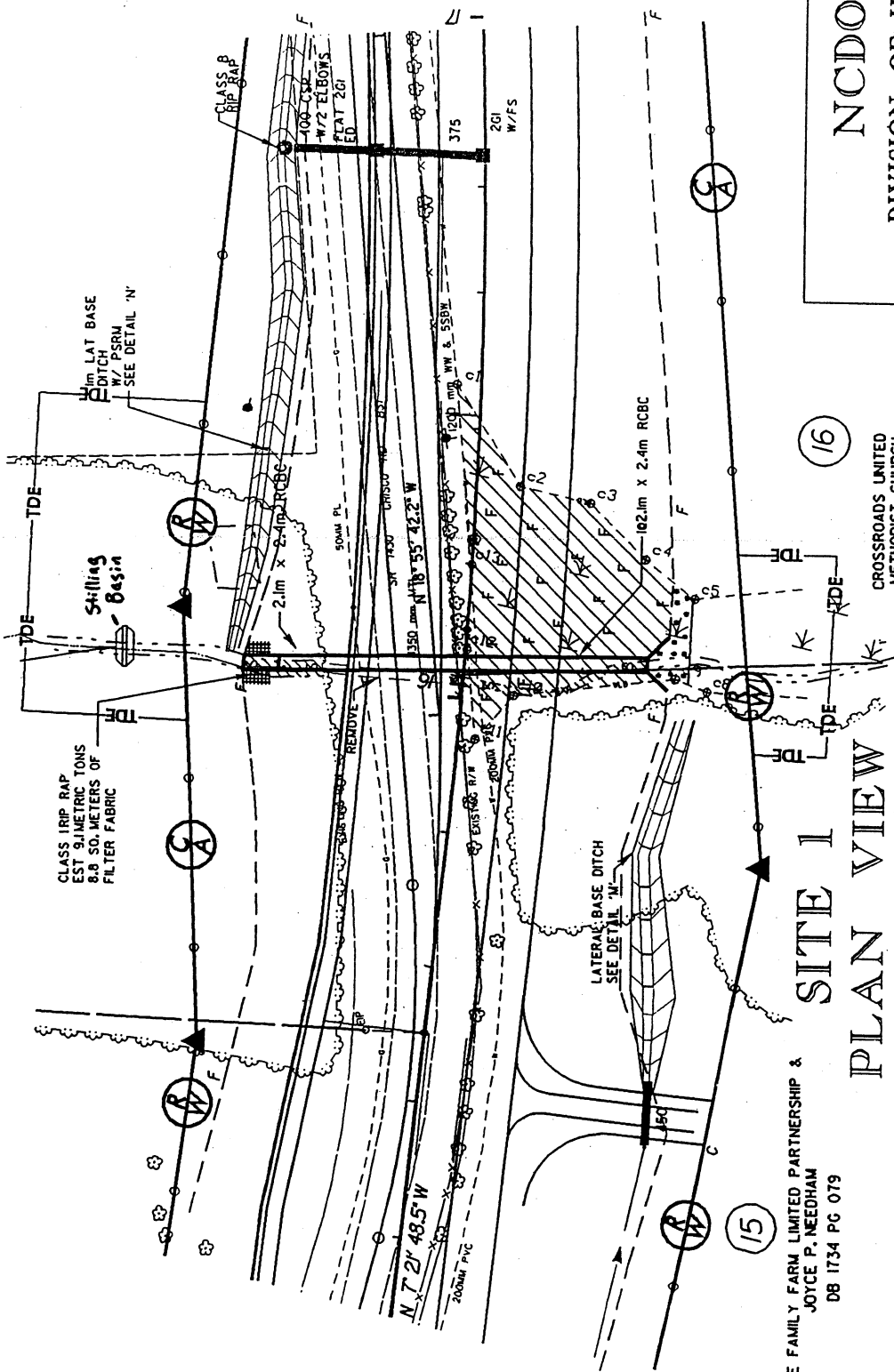


PROPERTY OWNERS

PARCEL NO.	NAMES	ADDRESSES
15	COBLE FAMILY FARM LIMITED PARTNERSHIP & JOYCE P. NEEDHAM	1830 OLD SALISBURY RD. CONCORD, NC 28025
16	CROSSROADS UNITED METHODIST CHURCH	2104 PITTS SCHOOL RD. CONCORD, NC 28207
17	ELIZABETH P. COOK FAMILY LIMITED PARTNERSHIP	1221 OLD SALISBURY RD. CONCORD, NC 28025
18	COBLE FAMILY FARM LIMITED PARTNERSHIP & JOYCE P. NEEDHAM LIMITED PARTNERSHIP	1830 OLD SALISBURY RD. CONCORD, NC 28025

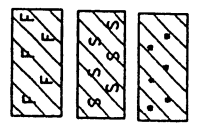
NCDOT

DIVISION OF HIGHWAYS
CABARRUS COUNTY
PROJECT: 8.2661601 (R-2246C)
CONCORD-KANNAPOLIS
WESTSIDE BYP EXT FROM
SR 1431 TO SR 1555

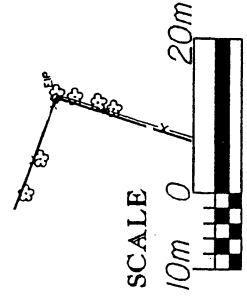


COBLE FAMILY FARM LIMITED PARTNERSHIP &
 JOYCE P. NEEDHAM
 DB 1734 PG 079

**SITE 1
 PLAN VIEW**



- DENOTES FILL IN WETLANDS
- DENOTES FILL IN SURFACE WATER
- DENOTES MECHANIZED CLEARING



NCDOT
 DIVISION OF HIGHWAYS
 CABARRUS COUNTY
 PROJECT: 8.2661601 (R-2246C)
 CONCORD-KANNAPOLIS
 WESTSIDE BYP EXT FROM
 SR 1431 TO SR 1555

WETLAND PERMIT IMPACT SUMMARY

Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS				SURFACE WATER IMPACTS					
			Fill In Wetlands (ha) ac	Temp. Fill In Wetlands (ha)	Excavation In Wetlands (ha)	Mechanized Clearing (Method III) (ha) ac	Fill In SW (Natural) (ha) / ac	Fill In SW (Pond) (ha)	Temp. Fill In SW (ha)	Existing Channel Impacted (m) ft	Natural Stream Design (m)	
1	16+00-L-	2.1m x 2.4m RCBC	0.085 / 0.21			0.0047 / 0.0116	0.0059 / 0.015				42.3 / 138.8	0
2	21+10 -L-	1050 RCP	0.0007 / 0.0017			0.0016 / 0.0040	0.0019 / 0.0047				34.3 / 112.5	
3	23+75 -L-	2 @ 1.8m x 2.1m RCBC	0.0061 / 0.0151				0.006 / 0.0148				32.9 / 107.9	
TOTALS:			0.09177	0	0	0.0063	0.0138	0	0	0	109.5	0

English Conversion

0.2268 ac

0.0156 ac

359.2 ft

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

CABARRUS COUNTY

PROJECT NO. 8.2661301 (R-2246 C)
CONCORD-KANNAPOLIS WESTSIDE BYP EXT
FROM SR 1431 TO SR 1555

SHEET 8 OF 8
10/7/2002



RECEIVED

SEP 23 2003

CESAW-CO-RA

☒ North Carolina Wildlife Resources Commission ☒

Charles R. Fullwood, Executive Director

TO: Steve W. Lund, DOT Coordinator
Asheville Regulatory Field Office, USACE

FROM: Marla Chambers, Highway Projects Coordinator
Habitat Conservation Program, NCWRC

DATE: September 18, 2003

SUBJECT: Review of a Section 404 Permit application by NCDOT for the proposed widening of SR 1430 (Crisco Road) from SR 1431 (Weddington Road) to SR 1555 (Grand Canyon Road), Cabarrus County. TIP No. R-2246 C.

North Carolina Department of Transportation (NCDOT) has submitted an application to obtain a Section 404 Individual Permit from the U.S. Army Corps of Engineers (USACE). A staff biologist with the North Carolina Wildlife Resources Commission (NCWRC) visited the site on September 16, 2003 and reviewed the information provided, including two indirect and cumulative impact study documents. These comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4332(2)(c)) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d).

The NCDOT proposes to widen the existing two-lane SR 1430 (Crisco Road) from SR 1431 (Weddington Road) to SR 1555 (Grand Canyon Road) to a four-lane divided roadway that transitions to five lanes with curb and gutter closer to SR 1555. The site visit revealed that Crisco Road has been renamed George W. Liles Parkway in the project area. This project is part of the larger Concord-Kannapolis Westside Bypass Extension (TIP No. R-2246), which is a continuation of the Kannapolis Westside Bypass (TIP No. U-2009). Together these two projects, hereafter referred to as the Westside Bypass, extend from NC 49 at the southern terminus to SR 1616 (Tuckaseegee Road) at the northern terminus. Future extension of the bypass to the north into Rowan County is anticipated. The SR 1555 widening project (Section C) is approximately one mile in length, while the Westside Bypass length is 13.3 miles.

The Section C project will permanently impact three wetlands totaling 0.24 acres and three perennial streams totaling 359.2 linear feet. All stream impacts are to unnamed tributaries to Coddle Creek. Upstream of the Section C project, Coddle Creek is impounded as a water

supply reservoir for Cabarrus County and Kannapolis and adjacent to the project area, it is Class C waters and on the Section 303(d) list of impaired waters due to sedimentation. The Carolina darter (*Etheostoma collis*), Federal Species of Concern and state Special Concern, inhabits Coddle Creek near the project and throughout the Coddle Creek watershed in the vicinity of the proposed Westside Bypass. Coddle Creek discharges to Rocky River, which is also on the Section 303(d) list, according to information provided.

Indirect and cumulative impacts were assessed for the proposed Westside Bypass in two documents, "Final Indirect and Cumulative Impact Assessment" (July 2003) and "Indirect and Cumulative Impact Study, Qualitative Assessment of Sediment and Nutrients" (August 2003). One of the studies pointed out that Cabarrus County is one of the fastest growing counties in North Carolina and the Westside Bypass is proposed in an area of high growth, within 20 miles of the Charlotte/Mecklenburg regional employment center (the state's largest) and within 5 miles of the urban centers of Kannapolis, Concord and Harrisburg. Developable land and sewer and/or water services are available throughout the study area. It was determined that the likelihood for the project to induce growth and affect changes in land use that could impact resources in the study area is high.

Indirect and cumulative impacts are expected in the Coddle Creek and Irish Buffalo Creek watersheds. Existing land use was characterized as rural, low-density uses intensifying with development. Segments of the proposed Westside Bypass and adjacent sections of the intersecting roads were evaluated for the potential for project-induced land use changes compared to the No-Build scenario. Much of the study area was expected to attain or approach build-out conditions by the year 2015. The study indicated the Westside Bypass will likely have the effect of inducing an accelerated rate of growth within the study area and, in many cases, effect the type of development (commercial/industrial vs. residential) and/or density.

Results of the analysis suggest construction of the Westside Bypass will result in an increase in sediment of 7%, an increase in total nitrogen of 5.3% and an increase in total phosphorus loading of 7.4% as compared to the No-Build option. The differences were considered small compared to the predicted difference between current conditions and estimated future conditions. Most of the increase in total nitrogen and phosphorus was attainable to increase in flows. Increased impervious surface from development and the Bypass itself is expected to increase stream flow below the project by an average of 4.7%. A significant increase in the sediment load of more than 30% is expected in the watershed with or without the Bypass as a result of ongoing development. Forty percent of the stream reaches surveyed for the study were incised. Results of the study confirm that streambank instability is a major water quality concern for the basin and suggest that without intensive stream restoration efforts in the Coddle Creek watershed, sediment impairment will continue.

The most comprehensive development controls protecting the water resources of the study area are in the Unified Development Ordinance (UDO) that has been adopted by Cabarrus County and the Cities of Kannapolis, Concord and Harrisburg. The UDO includes a 50-foot minimum buffer on either side of perennial streams identified as blue lines on USGS 1:24,000 scale maps and limits development densities within certain watershed districts. One of the reports suggests while it appears sufficient land use controls and regulations are in place to, if

properly enforced, avoid and minimize impacts to water quality, it may be necessary to revise zoning regulations to further minimize cumulative environmental impacts. Study recommendations include a joint effort between Cabarrus County, Kannapolis and NC Division of Water Quality (NCDWQ) to address sediment and nutrient loading from development, use of best management practices, and that the Coddle Creek watershed be targeted for buffer acquisition and stream restoration.

The NCWRC is concerned about negative impacts to the fish and wildlife resources and water quality in the subject watersheds due to expected development and the proposed Westside Bypass. We recommend governing bodies with jurisdiction over development in the Bypass impact area strictly enforce existing regulations and work with NCDWQ and others to improve and protect water quality and wildlife habitat. Low impact development techniques are recommended to manage stormwater quantity and quality in the watershed (see www.lowimpactdevelopment.org for information). Stream restoration and buffer protection and restoration efforts should be strongly pursued in the Coddle Creek and Irish Buffalo Creek watersheds. NCDOT should provide mitigation for all impacts associated with the Bypass, and mitigation efforts should be concentrated in these watersheds.

NCDOT proposes partial access control for the project, except for the US 29 interchange, which will have full control of access. Partial access control allows each property abutting the right-of-way to be permitted access to the road, however, the location, number and geometrics of the access points may be governed by driveway and approach regulations. We request NCDOT determine if the level of service (LOS) and safety of the proposed Westside Bypass will be at acceptable levels after build-out conditions occur. We cannot concur with any portion of the Westside Bypass if traffic conditions and accident rates from numerous access points and dense development will result in the need for an additional bypass to avoid unacceptable conditions on the Westside Bypass within the next 15 to 20 years. This would promote urban sprawl and lead to additional negative impacts to the natural and human environments in a relatively short time frame. We recommend NCDOT investigate the potential of more restrictive control of access, including full control of access on new location sections of the Bypass, to reduce accelerated growth expected from the roadway and extend the time period of acceptable LOS.

In addition to the above recommendations, the following conditions should be incorporated into the permit, if issued:

1. Sediment and erosion control measures shall adhere to the design standards for sensitive watersheds (15A NCAC 4B .0124 (a)-(d)) and be strictly maintained until project completion to avoid impacts to downstream aquatic resources. Temporary or permanent herbaceous vegetation should be planted on all bare soil within 10 days of ground disturbing activities to provide long-term erosion control. Tall fescue should not be used in riparian areas. We encourage NCDOT to utilize onsite vegetation and materials for streambank stabilization when practicable. Erosion control matting should be used in riparian areas, instead of straw mulch.
2. Culverts that are less than 48-inch diameter should have the floor of the barrel installed 20% of the diameter of the culvert below the level of the stream bottom. Culverts that are 48-inch diameter or larger should be placed with the floor of the barrel approximately 12

- inches below the stream bottom to allow natural stream bottom materials to become established in the culvert following installation and to provide aquatic life passage during periods of low flow. This may require increasing the size of the culvert to meet flow conveyance requirements. These measurements must be based on natural thalweg depths. Any perched outlets should be corrected during construction.
3. The natural dimension, pattern, and profile of the stream above and below the culverts should not be modified by widening the stream channel or changing the depth of the stream.
 4. Removal of vegetation in riparian areas should be minimized. Native trees and shrubs should be planted along the stream banks to reestablish the riparian zone and to provide long-term erosion control.
 5. Grading and backfilling should be minimized, and tree and shrub growth should be retained if possible to ensure long term availability of shoreline cover for fish and wildlife. Backfill materials should be obtained from upland sites.
 6. Riprap should be minimized and installed in a manner so as not to interfere with aquatic life passage during low flow conditions. Riprap placed for bank stabilization should be limited to the stream bank below the high water mark, and vegetation should be used for stabilization above the high water elevation.
 7. Excavation of the stream crossings should be conducted in the dry, if possible. Sandbags, cofferdams, flexible pipe, or other diversion structures should be used to minimize excavation in flowing water.
 8. Rock check dams at culvert outlets should be removed at project completion. These structures could impede movement of aquatic life.
 9. Stormwater management and pre-treatment should be maximized. Stormwater should be directed to buffer areas or retention basins and should not be routed directly into streams. Alternatives to curb and gutter should be explored.
 10. If concrete will be used during construction, work must be accomplished so that wet (uncured) concrete does not contact surface waters. This will lessen the chance of altering the water chemistry and causing a fish kill.
 11. Discharging hydroseeding mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is strictly prohibited.
 12. Heavy equipment should be operated from the bank rather than in the stream channel whenever possible in order to minimize sedimentation and reduce the likelihood of introducing other pollutants into the stream. All mechanized equipment operated near surface waters should be inspected and maintained regularly to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids or other toxic materials.

Thank you for the opportunity review and comment on this project. If you have any questions regarding these comments, please contact me at (704) 485-2384.

cc: Marella Buncick, USFWS
Cynthia Van Der Wiele, NCDWQ
Sarah McRae, NCNHP



Michael F. Easley, Governor
 William G. Ross Jr., Secretary
 North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E., Director
 Division of Water Quality
 Coleen H. Sullins, Deputy Director
 Division of Water Quality

December 19, 2003
 Cabarrus County
 DWQ Project No. 030845
 TIP Project No. R-2246C

Proposed Widening of SR 1430 (George W. Liles Parkway)/Westside Bypass Extension

APPROVAL of 401 Water Quality Certification with Additional Conditions

Dr. Gregory J. Thorpe, Ph.D., Manager
 NCDOT Project Development & Environmental Analysis
 1548 Mail Service Center
 Raleigh, NC 27699-1548

Dear Dr. Thorpe:

You have our approval, in accordance with the attached conditions and those listed below, incur the following impacts:

- 0.24 acres of wetlands
- 359.2 linear feet of stream (3 unnamed tributaries to Coddle Creek)

These impacts are necessary to widen SR 1430 (George W. Liles Parkway) as part of the Kannapolis Westside Bypass in Cabarrus County. This project involves the Westside Bypass Extension from SR 1431 (Weddington Road) to SR 1555 (Grand Canyon Road). The project should be constructed in accordance with your application dated July 18, 2003.

After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Nos. 3366 and 3404 corresponding to U.S. Army Corps of Engineers Nationwide Permit Numbers 33 and 14. In addition, you should acquire and comply with any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, and Non-Discharge as well as the Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit unless otherwise specified in the Water Quality Certification.

This approval is only valid for the purpose and design that you described in your application except as modified below. If you change your project, you must notify us, *in writing*, and send us 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 conditions. If total wetland fills for this project (now or in the future) exceed one acre, or if stream impacts exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). *For this approval to be valid, you must follow the conditions listed in the attached certification and any additional conditions listed below.*

1. Construction shall be performed so that no violations of state water quality standards, statutes, or rules occur.
 - Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface water quality standards.
 - The erosion and sediment control measures for this project must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*. These devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects,



Dr. Gregory J. Thorpe
TIP Project No. R-2246C
DWQ # 030845

- including contractor-owned or leased borrow pits associated with the projects included under this Certification.
- For borrow pit sites, the erosion and sediment control measures must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the *North Carolina Surface Mining Manual*.
 - Any reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
 - For the entire R-2246C project corridor (from SR 1431 (Weddington Road) to SR 1555 (Grand Canyon Road), NCDOT shall strictly adhere to North Carolina regulations entitled, *Design Standards in Sensitive Watersheds* (15A NCAC 4B .0124 (b) –(e) *only*). NCDOT will *not* be required to comply with 15A NCAC 2B .0124(a), which restricts clearing to 20 acres at a time. Temporary or permanent herbaceous vegetation should be planted on all bare soil within 10 days of ground-disturbing activities to provide long-term erosion control. Tall fescue shall not be used in riparian areas per NC Wildlife Resource Commission recommendations. Erosion control matting should be used in riparian areas instead of straw mulch.
2. Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within 30 days after the Division of Land Resources has released the project.
 3. NCDOT and its contractors and/or agents shall not excavate, fill, or perform mechanized land clearing at any time in the construction or maintenance of this project within waters and/or wetlands, except as authorized by this Certification, or any modification to this Certification (e.g., *no work shall occur outside of the footprint of the plans provided*). In addition, there shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this Certification without appropriate modification. If this occurs, compensatory mitigation will be required since it is a direct impact from road construction activities.
 4. Stormwater runoff shall be pre-treated by any best engineering practices appropriate to the site topography. Removing or mowing of existing wooded stream buffers should be minimized in order to allow them to provide diffuse stormwater flow, sediment removal and streambank stabilization.
 5. Live or fresh concrete shall not come into contact with waters of the state until the concrete has hardened.
 6. Discharging hydroseeding mixtures and washing out hydroseeders and other equipment in or within 100 feet of surface waters is strictly prohibited.
 7. The natural dimension, pattern and profile of the stream above and below the crossing should not be modified by widening the stream channel or changing the depth of the stream.
 8. Placement of culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts 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 down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ.

Dr. Gregory J. Thorpe
TIP Project No. R-2246C
DWQ # 030845

9. Riprap shall not be placed in the stream bottom.
10. Riprap shall not interfere with aquatic life passage during low flow conditions.
11. Heavy equipment should be operated from the bank rather than in the stream channel unless demonstrated by the applicant or its authorized agent to be unfeasible. All mechanized equipment operated near surface waters should be inspected and maintained regularly to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids or other toxic substances.
12. Compensatory mitigation shall be the same as that approved by the US Army Corps of Engineers as long as the mitigation required equals a ratio of 1:1 restoration or creation of lost wetland acres as described in 15A NCAC 2H.0506 (h)(6). NC Ecological Enhancement Program (EEP) has agreed to provide all of the compensatory mitigation for these impacts. In accordance with 15A NCAC 2R.0500, this contribution will satisfy NC Division of Water Quality's compensatory mitigation requirements under 15A NCAC 2H.0506(h). Until the EEP receives and clears your payment, wetland fill shall not occur. The payment to EEP shall be sent within two (2) months of issuance of the §404 permit.
13. Riparian vegetation, using native trees and shrubs, must be re-established within the construction limits of the project by the end of the growing season following completion of construction to reestablish the riparian zone and to provide long-term erosion control.
14. Based on the findings of the *Indirect and Cumulative Analysis Nutrient Study Quantitative Assessment of Sediment and Nutrients* for Kannapolis Westside Bypass (R-2246) (September 2003) prepared by Buck Engineering, the anticipated cumulative impacts from the above-referenced project shall be addressed via written agreements between NC Division of Water Quality, City of Concord (dated December 11, 2003) and Cabarrus County (dated December 15, 2003) concerning protected stream buffers and on-site stormwater management. NCDOT shall assist in the development and implementation of these measures as appropriate.

In order to address the cumulative impacts of induced development on streambank stability, NCDOT shall fund the development of a local watershed plan to be performed by WRP/EEP to identify stream restoration of unstable streams.

15. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certificate of Completion" form to notify NCDWQ when all work included in the §401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the NC Division of Water Quality upon completion of the project.
16. NCDOT and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State law and Federal law. If DWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWQ may reevaluate and modify this certification to include conditions appropriate to assure compliance with such standards and requirements in accordance with 15A NCAC 2H.0507(d). Before modifying the certification, DWQ shall notify NCDOT and the US Army Corps of Engineers, provide public notice in accordance with 15A NCAC 2H.0503 and provide opportunity for public hearing in accordance with 15A NCAC 2H.0504. Any new or revised conditions shall be provided to NCDOT in writing, shall be

Dr. Gregory J. Thorpe
TIP Project No. R-2246C
DWQ # 030845

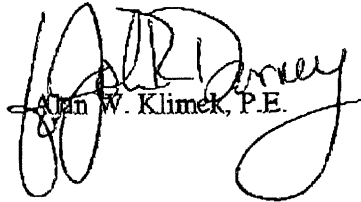
provided to the United States Army Corps of Engineers for reference in any permit issued pursuant to Section 404 of the Clean Water Act, and shall also become conditions of the 404 Permit for the project.

NCDOT shall require its contractors (and/or agents) to comply with all of the conditions of this Certification, and shall provide each of its contractors (and/or agents) a copy of this Certification.

If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This certification and its conditions are final and binding unless you ask for a hearing.

This letter completes the review of the Division of Water Quality under §401 of the Clean Water Act. If you have any questions, please telephone Ms. Cynthia Van Der Wiele at 919.733.5715.

Sincerely,


Alan W. Klimek, P.E.

Attachment

Pc: Wilmington District Corps of Engineers
Steve Lund, USACE Asheville Field Office
NCDWQ Asheville Regional Office
Central Files
File Copy
H. Allen Scott, Jr.; Environmental Services Director; City of Concord; P.O. Box 308;
Concord, NC 28026
Frankie Bonds; County Clerk; Cabarrus County, P.O. Box 707; Concord, NC 28026

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 NWPs 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 NWPs).

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 NWPs.

b. Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.noaa.gov/protres/overview/es.html> respectively.

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

13. **Notification.**

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

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

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

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

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

1. Name, address and telephone numbers of the prospective permittee;

2. Location of the proposed project;

3. Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);

4. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;

6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;

7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;

9. For NWP 29 (Single-Family Housing), the PCN must also include:

i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;

ii. A statement that the single-family housing activity is for a personal residence of the permittee;

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

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

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

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

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

iii. Location of the dredged material disposal site;

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

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

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

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance

with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

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

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

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

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

d. District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more

than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

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

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

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

For activities requiring notification to the District Engineer that result in the loss of greater than $\frac{1}{2}$ -acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations.

Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than $\frac{1}{4}$ -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 NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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

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

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

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

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

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

(including any modification that affects the project).

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

WQC #3375

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS
NATIONWIDE PERMIT NUMBER 14 (ROAD CROSSINGS) AND REGIONAL GENERAL
PERMIT 198200031 (WORK ASSOCIATED WITH BRIDGE CONSTRUCTION, MAINTENANCE
OR REPAIR CONDUCTED BY NCDOT OR OTHER GOVERNMENT AGENCIES)
AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (DWQ) Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and adjacent wetland areas which are above headwaters or to wetland areas that are not a part of the surface tributary system to interstate waters or navigable waters of the United States (i.e., isolated wetlands) as described in 33 CFR 330 Appendix A (B) (14) of the Corps of Engineers regulations (Nationwide Permit No. 14 and Regional General Permit 198200031) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. The category of activities shall include any fill activity for road crossings and is limited to fill less than one-third acre in tidal waters and less than one-half acre in non-tidal waters. This Certification replaces Water Quality Certification Number 2177 issued on November 5, 1987, Water Quality Certification Number 2666 issued on January 21, 1992, Water Quality Certification Number 2732 issued on May 1, 1992, Water Quality Certification Number 3103 issued on February 11, 1997, and Water Quality Certification Number 3289 issued on June 1, 2000. This WQC is rescinded when the Corps of Engineers re-authorizes Nationwide Permit 14 or Regional General Permit 198200031 or when deemed appropriate by the Director of DWQ.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Certification:

1. Enumerating and Reporting of Impacts:

- Streams - Impacts to streams as determined by the Division of Water Quality shall be measured as length of the centerline of the normal flow channel. Permanent and/or temporary stream impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Stream relocations and stream bed and/or bank hardening are considered to be permanent stream impacts. Any activity that results in a loss of use of stream functions including but not limited to filling, relocating, flooding, dredging and complete shading shall be considered stream impacts. Enumeration of impacts to streams shall include streams enclosed by bottomless culverts, bottomless arches or other spanning structures when a 404 Permit is used anywhere in a project unless the entire structure (including construction impacts) spans the entire bed and both banks of the stream, is only used for a road, driveway or path crossing, and is not mitered to follow the stream pattern. Impacts for dam footprints and flooding will count toward the threshold for stream impacts, but flooding upstream of the dam will not (as long as no filling, excavation, relocation or other modification of the existing stream dimension, pattern or profile occurs) count towards mitigation.
- Wetlands - Impacts to wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary wetland impacts shall be enumerated on the entire project for all impacts regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of wetland functions including but not limited to filling, draining, and flooding shall be considered wetland impacts. Enumeration of impacts to wetlands shall include activities that change the hydrology of a wetland when a 404 Permit is used anywhere in a project.

WQC #3375

- Lakes and Ponds – Lake and Pond Impacts Enumeration- Impacts to waters other than streams and wetlands as determined by the Division of Water Quality shall be measured as area. Permanent and/or temporary water impacts shall be enumerated on the entire project for all impacts proposed regardless of which 404 Nationwide Permits are used. Any activity that results in a loss of use of aquatic functions including but not limited to filling and dredging shall be considered waters impacts;
- 2. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires application to and prior written concurrence from the Division of Water Quality;
- 3. Impacts to any stream length in the Neuse, Tar-Pamlico or Randleman River Basins (or any other major river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence for this Certification 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 and Tar-Pamlico 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;
- 4. Additional site-specific stormwater management requirements may be added to this Certification at DWQ's discretion on a case by case basis for projects that have or are anticipated to have impervious cover of greater than 30 percent. Site-specific stormwater management shall be designed to remove 85% TSS according to the latest version of DWQ's Stormwater Best Management Practices manual at a minimum.

Additionally, in watersheds within one mile and draining to 303(d) listed waters, as well as watersheds that are classified as nutrient sensitive waters (NSW), water supply waters (WS), trout waters (Tr), high quality waters (HQW), and outstanding resource waters (ORW), the Division shall require that extended detention wetlands, bio-retention areas, and ponds followed by forested filter strips (designed according to latest version of the NC DENR Stormwater Best Management Practices Manual) be constructed as part of the stormwater management plan when a site-specific stormwater management plan is required.

Alternative designs may be requested by the applicant and will be reviewed on a case-by-case basis by the Division of Water Quality.

Approval of stormwater management plans by the Division of Water Quality's other existing state stormwater programs including appropriate local programs are sufficient to satisfy this Condition as long as the stormwater management plans meet or exceed the design requirements specified in this condition. This condition applies unless more stringent requirements are in effect from other state water quality programs.

- Unless specified otherwise in the approval letter, the final, written stormwater management plan shall be approved in writing by the Division of Water Quality's Wetlands Unit before the impacts specified in this Certification occur.
- The facilities must be designed to treat the runoff from the entire project, unless otherwise explicitly approved by the Division of Water Quality.
- Also, before any permanent building or other structure is occupied at the subject site, the facilities (as approved by the Wetlands Unit) shall be constructed and operational, and the stormwater management plan (as approved by the Wetlands Unit) shall be implemented.

WQC #3375

- The structural stormwater practices as approved by the Wetlands Unit as well as drainage patterns must be maintained in perpetuity.
 - No changes to the structural stormwater practices shall be made without written authorization from the Division of Water Quality.
5. 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;
 6. In accordance with North Carolina General Statute Section 143-215.3D(e), any application 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;
 7. 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. For linear public transportation projects, impacts equal to or exceeding 150 feet per stream may require mitigation. 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, unless otherwise specified in the approval letter. 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 travelling public. Projects may also be implemented once payment is made to a private mitigation bank or other in-lieu fee program, as specified in the written concurrence of 401 Certification for a project. Please note that if a stream relocation is conducted as a stream restoration as defined in *The Internal Technical Guide for Stream Work in North Carolina*, April 2001, the restored length can be used as compensatory mitigation for the impacts resulting from the relocation;
 8. For any project involving re-alignment of streams, a stream relocation plan must be included with the 401 application for written DWQ approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel, to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, rip-rap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested. If suitable stream mitigation is not practical on-site, then stream impact will need to be mitigated elsewhere;
 9. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts including open bottom or bottomless arch culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in aggradation, degradation or significant changes in hydrology of

WQC #3375

wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested to do so in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in aggradation, degradation or significant changes in hydrology of streams or wetlands;

10. That 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;
11. All sediment and erosion control measures placed in wetlands and waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
12. That additional site-specific conditions may be added to projects proposed under this Certification in order to ensure compliance with all applicable water quality and effluent standards;
13. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
14. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;
15. If this Certification is used to access building sites, all lots owned by the applicant must be buildable without additional fill beyond that explicitly allowed under other General Certifications. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground;
16. 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;
17. 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 Permit 14 or Regional General Permit 198200031, whichever is sooner.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this Certification for the project and may also result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity that requires written concurrence under this certification, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

WQC #3375

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 18 March 2002

DIVISION OF WATER QUALITY

By

Gregory J. Thorpe, Ph.D.

Acting Director

WQC # 3375

WQC #3366

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 33 (TEMPORARY CONSTRUCTION, ACCESS AND DEWATERING) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and wetland areas as described in 33 CFR 330 Appendix A (B) (33) of the Corps of Engineers regulations (i.e., Nationwide Permit No. 33) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. The category of activities shall include any fill activity for temporary construction, access and de-watering. This Certification replaces Water Quality Certification Number 2727 issued on May 1, 1992 and Certification Number 3114 issued on February 11, 1997. This WQC is rescinded when the Corps of Engineers reauthorize Nationwide Permit 33 or when deemed appropriate by the Director of the DWQ.

The State of North Carolina certifies that the specified category of activity will not violate appropriate portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

Conditions of Certification:

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

WQC #3366

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

WQC #3366

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

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this Certification for the project and may result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for individual certification for any project in this category of activity that requires written concurrence under this certification, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland, stream or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 18 March 2002

DIVISION OF WATER QUALITY

By

Gregory J. Thorpe, Ph.D.

Acting Director

WQC # 3366