



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

May 13, 2011

MEMORANDUM TO: Mr. Jay Swain, PE
Division 13 Engineer

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

SUBJECT: Yancey County; US 19/US 19E Improvements from SR 1336
(Jacks Creek Road) to SR 1186 (US 19) west of Micaville
Division 13; State Project Numbers 6.869005T and 6.909001T
WBS Element 35609.1.1; **T.I.P. R-2519A**

E. J. Fuels

Attached are modifications to the U.S. Army Corps of Engineers Section 404 Individual Permit and the N.C. Division of Water Quality Section 401 Water Quality Certification for the above referenced project. These modifications are for utility work to be undertaken by the Town of Burnsville in connection with this project. All environmental permits have been received for the construction of this project.

A copy of this permit package will be posted on the NCDOT website at:
<http://www.ncdot.gov/doh/preconstruct/pe/neu/permit.html>

Cc: w/o attachment (see website for attachments):

Mr. Randy Garris, P.E. State Contract Officer
Mr. Roger Bryan, Division Environmental Officer
Mr. Majed Alghandour, P. E., Programming and TIP
Mr. Jay Bennett, P.E., Roadway Design Unit
Mr. Dewayne Sykes, P.E. Utilities Unit
Dr. David Chang, P.E., Hydraulics Unit
Mr. Art McMillan, P.E., Highway Design Branch
Mr. Tom Koch, P.E., Structure Design Unit
Mr. Mark Staley, Roadside Environmental Unit
Mr. Ron Hancock, P.E., State Roadway Construction Engineer
Mr. Mike Robinson, P.E., State Bridge Construction Engineer
Ms. Teresa Hart, P.E., PDEA Western Region Unit Head

PROJECT COMMITMENTS

T.I.P Project No. R-2519A,
From SR 1336 (Jacks Creek Road)
to SR 1186 (US 19) west of Micaville
Yancey County
Federal Aid Project No. BRZ-1318(8)
State Project No. 6.909001T
WBS 35609.1.1

This Utility Modification to the R-2519A, Individual Section 404 Permit and the 401 Water Quality Certification has resulted in no changes to the project green sheets originally issued April 2008. All previous commitments remain valid.

COMMITMENTS FROM PROJECT DEVELOPMENT AND DESIGN

Natural Environmental Unit/Division 13

Email correspondence with Marla Chambers dated January 25, 2010 stated concerning moratoria for Section R-2519A: "According to our moratoria letter, the UT to Cane River would fall under the same moratorium that we requested for Cane River - April 1 to June 30. We can waive the trout moratorium for Pine Swamp Branch and Bailey Branch, but all other waters, not addressed specifically by our letter dated July 19, 2007, should adhere to the short trout moratorium - January 1 to April 15".

In summary, the in-water moratoria for R-2519A are as follows:

UTs to the Cane River (Permit Sites 1-6): **April 1 to June 30** (Mussel spawning)

Bailey Branch, Pine Swamp Branch (Permit Sites 7-10): **No moratoria**

Little Crabtree Creek, Ray Creek, Sugar Hollow Creek, Allen Branch, George's Fork Shoal Creek, Plum Branch and their UTs (Permit Sites 11-16, 18, 21 -37):
January 1 to April 15 (trout moratorium)

COMMITMENTS FROM PERMITTING

Division 14 Construction/Utilities Unit

404 Condition 1. Regardless of who performs the utility work at sites 10, 15, and 16, NCDOT shall be responsible for permit compliance.

404 Condition 2. NCDOT shall have an inspector on-site during all utility work in waters of the U.S. at sites 10, 15, and 16.

404 Condition 4. Excavated material shall not be placed or stockpiled in waters of the U.S., even temporarily.

404 Condition 5. Trenches shall not be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, etc.).

401 Condition 2. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMPs from the most current version of NCDOT Construction and Maintenance Activities measures manual such as sand bags, rock berms, cofferdams or other diversion structures shall be used to prevent excavation in flowing water.

401 Condition 3. At Permit Sites 15 and 16 there shall be no in-stream work or land disturbance within the 25 foot buffer zone around the trout spawning season of January 1 to April 15 to protect the egg and fry stages of trout.

401 Condition 4. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.

401 Condition 5. For sewer lines, the edge of the construction corridor shall not be installed parallel to and closer than 10 feet from top of bank to a stream except for the following classifications; 50 feet to waters classified as WS (except WS-IV or WS-V), B, SA ORW, HQW or SB from normal high water and wetlands; or 100 feet to private or public water supply sources or waters classified as WS-I waters or Class I or Class II impounded reservoirs used as a source of drinking water in accordance with 15A NCAC 02T .0305(f). Utility lines shall not cross a stream channel at other than a near perpendicular direction (i.e., stream channel crossings shall not be at an angle of less than 75 degrees or more than 105 degrees to the stream bank).

401 Condition 6. Any wastewater line that crosses any stream shown on the most recent version of the 1:24,000 USGS topographic map or NRCS County Soil Survey as permanent or intermittent shall be installed either with no joints connected within the footprint of the stream bank two feet of the stream banks in the case of plastic or PVC pipes or with properly bedded and supported ductile iron. *Otherwise, written approval of DWQ is required.*

401 Condition 8. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 15 feet in width except at manhole locations. A 15 foot by 15 foot perpendicular vehicle turnaround must be spaced at least 500 feet apart.



REPLY TO
ATTENTION OF:

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

April 25, 2011

Regulatory Division

Action ID: SAW-2007-02197

RECEIVED
Division of Highways
APR 28 2011
Preconstruction
Project Development and
Environmental Analysis Branch

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

RECEIVED

MAY 2 2011

DIVISION OF HIGHWAYS
U.S. OFFICE OF NATIONAL ENVIRONMENT

Dear Dr. Thorpe:

I refer to your Department of the Army (DA) Individual Permit dated April 17, 2008, in which we authorized the placement of fill material into 0.94 acre of wetlands and 14,766 linear feet (lf) of stream associated with the widening of approximately 21 miles of US Highway 19/19E in Madison and Yancey Counties, North Carolina (TIP Numbers **R-2518A/B** and **R-2519 A**). This permit was modified on February 10, 2009, in order to authorize you to place fill material in an additional 385 lf of stream.

I also refer to the letter of February 22, 2011, in which you requested a second modification for utility work at permits sites 10, 15, and 16 along Section 2519-A of the project. This additional work would impact 172.9 lf of streams; however, all impacts from this utility work would be temporary in nature and are located within the footprint of already permitted impacts. A summary of the proposed work is detailed in a-c below:

- a. Permit Site 10 (Plan sheet 13) - 67.6 lf of temporary impact to McIntosh Branch and 20.3 lf of temporary impact to an unnamed tributary to McIntosh Branch.
- b. Permit Site 15 (Plans sheet 21-22) - 21.7 lf of temporary impact to Little Crabtree Creek.
- c. Permit Site 16 (Plan sheet 21-22) - 29.2 lf of temporary impact to an unnamed tributary to Little Crabtree Creek and 34.1 lf of temporary impact to Little Crabtree Creek.

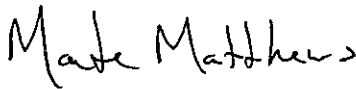
After review of the information you submitted and the inclusion of the following special conditions (1-5 below), we have determined that your existing DA authorization is modified to include the work detailed in a-c above, and in accordance with the attached plans.

1. Regardless of who performs the utility work at sites 10, 15, and 16, NCDOT shall be responsible for permit compliance.
2. NCDOT shall have an inspector on-site during all utility work in waters of the U.S. at sites 10, 15, and 16.
3. All utility work at sites 10, 15, and 16 shall be conducted in the dry.
4. Excavated material shall not be placed or stock piled in waters of the U.S., even temporarily.
5. Trenches shall not be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, etc.).

In addition to special conditions 1-5 above, all conditions of the original permit and previous modification remain applicable.

If you have questions, please contact Lori Beckwith at (828) 271-7980 extension 223.

Sincerely,



for / Scott McLendon
Assistant Chief,
Regulatory Division

Enclosures

Copies Furnished:

N.C. Division of Water Quality
Transportation Permitting Unit
Attn: Mr. Brian Wrenn
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

N.C. Department of Transportation
Attn: Mr. J. J. Swain, Jr.
P.O. Box 3279
Asheville, North Carolina 28802

BCF: CESA W-RG/L.Beckwith



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

April 1, 2011

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

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with ADDITIONAL CONDITIONS for Proposed improvements to US Highway 19/19E in Yancey County, State Project No. 6.869005T and 6.909001T, TIP R-2519A, NCDWQ Project No. 2007-1134v.6, NCDWQ Individual Certification No. 3706.

Dear Dr. Thorpe:

Attached hereto is a modification of Certification No. 3706 issued to The North Carolina Department of Transportation (NCDOT) dated October 11, 2007. This modification is applicable only to the additional proposed activities. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 11, 2007, and subsequent modifications dated March 17, 2008, February 20, 2009, September 4, 2009 and December 11, 2009 still apply, except where superseded by this Certification .

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

Sincerely,

Roger C. Edwards
for Coleen H. Sullins
Director

Attachments

- cc: Lori Beckwith, US Army Corps of Engineers, Asheville Field Office
- J.J. Swain, Jr., PE, Division 13 Engineer
- Roger Bryan, Division 13 Environmental Officer
- Chris Militscher, Environmental Protection Agency (electronic copy only)
- Marla Chambers, NC Wildlife Resources Commission
- Transportation Permitting Unit
- NCDWQ Asheville Regional Office
- File Copy

Transportation Permitting Unit
1650 Mail Service Center, Raleigh, North Carolina 27699-1650
Location: 2321 Crabtree Blvd., Raleigh, North Carolina 27604
Phone: 919-733-1786 \ FAX: 919-733-6893
Internet: <http://n2o.enr.state.nc.us/ncwetlands/>

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

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (NCDWQ) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to temporarily impact 173 linear feet of jurisdictional streams in Yancey County for the construction of utility lines (water and sewer). The project shall be constructed pursuant to the modification dated February 22, 2011 (received February March 4, 2011). The authorized impacts are as described below:

Stream Impacts in the French Broad River Basin

Site	Permanent Fill in Intermittent Stream (linear ft)	Streambank Stabilization in Perennial Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
R-2519A						
Original approved impacts at Site 10	0	23	691	47	0	0
New additional impacts with this approval at Site 10	0	0	0	88	849	714
Original approved impacts at Site 15	0	48	82	38	0	0
New additional impacts with this approval at Site 15	0	0	0	22	190	0
Original approved impacts at Site 16	0	0	41	15	0	0
New additional impacts with this approval at Site 16	0	0	0	63	119	0
Total	0	71	814	273	1158	714

Total Additional Temporary Stream Impact for Project: 173 linear feet

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

This approval is only valid for the purpose and design that you submitted in your modified application dated February 22, 2011 (received March 4, 2011). All the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 11, 2007, and subsequently modified on March 17, 2008, February 20, 2009, September 4, 2009, and December 11, 2009, still apply, except where superseded by this certification. Should your project change, you are required to notify NCDWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or

150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Condition(s) of Certification:

1. All other conditions written into previous Water Quality Certifications dated October 11, 2007, March 17, 2008, February 20, 2009, September 4, 2009 and December 11, 2009 for this project still apply.
2. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMPs from the most current version of NCDOT Construction and Maintenance Activities measures manual such as sand bags, rock berms, cofferdams or other diversion structures shall be used to prevent excavation in flowing water.
3. At Permit Sites 15 and 16 there shall be no in-stream work or land disturbance within the 25-foot buffer zone during the trout-spawning season of January 1 to April 15 to protect the egg and fry stages of trout.
4. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
5. For sewer lines, the edge of the construction corridor shall not be installed parallel to and closer than 10 feet from top of bank to a stream except for the following classifications; 50 feet to waters classified as WS (except WS-IV or WS-V), B, SA, ORW, HQW, or SB from normal high water (or tide elevation) and wetlands; or 100 feet to private or public water supply sources or waters classified as WS-I waters or Class I or Class II impounded reservoirs used as a source of drinking water in accordance with 15A NCAC 02T .0305(f). Utility lines shall not cross a stream channel at other than a near-perpendicular direction (i.e., stream channel crossings shall not be at an angle of less than 75 degrees or more than 105 degrees to the stream bank).
6. Any wastewater line that crosses any stream shown on the most recent version of the 1:24,000 USGS topographic map or NRCS (SCS) County Soil Survey as permanent or intermittent shall be installed either a) with no joints connected within the footprint of a stream channel or within two (2) feet of the stream banks in the case of plastic or PVC pipes or b) with properly bedded and supported ductile iron. *Otherwise, written approval from DWQ is required.*
7. The construction corridor (including access roads and stockpiling of materials) is limited to 40 feet (12.2 meters) in width in wetlands and across stream channels and must be minimized to the maximum extent practicable.
8. Permanent, maintained access corridors shall be restricted to the minimum width practicable and shall not exceed 15 feet in width except at manhole locations. A 15-foot by 15-foot perpendicular vehicle turnaround must be spaced at least 500 feet (152.4 meters) apart.

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

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

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

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

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

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

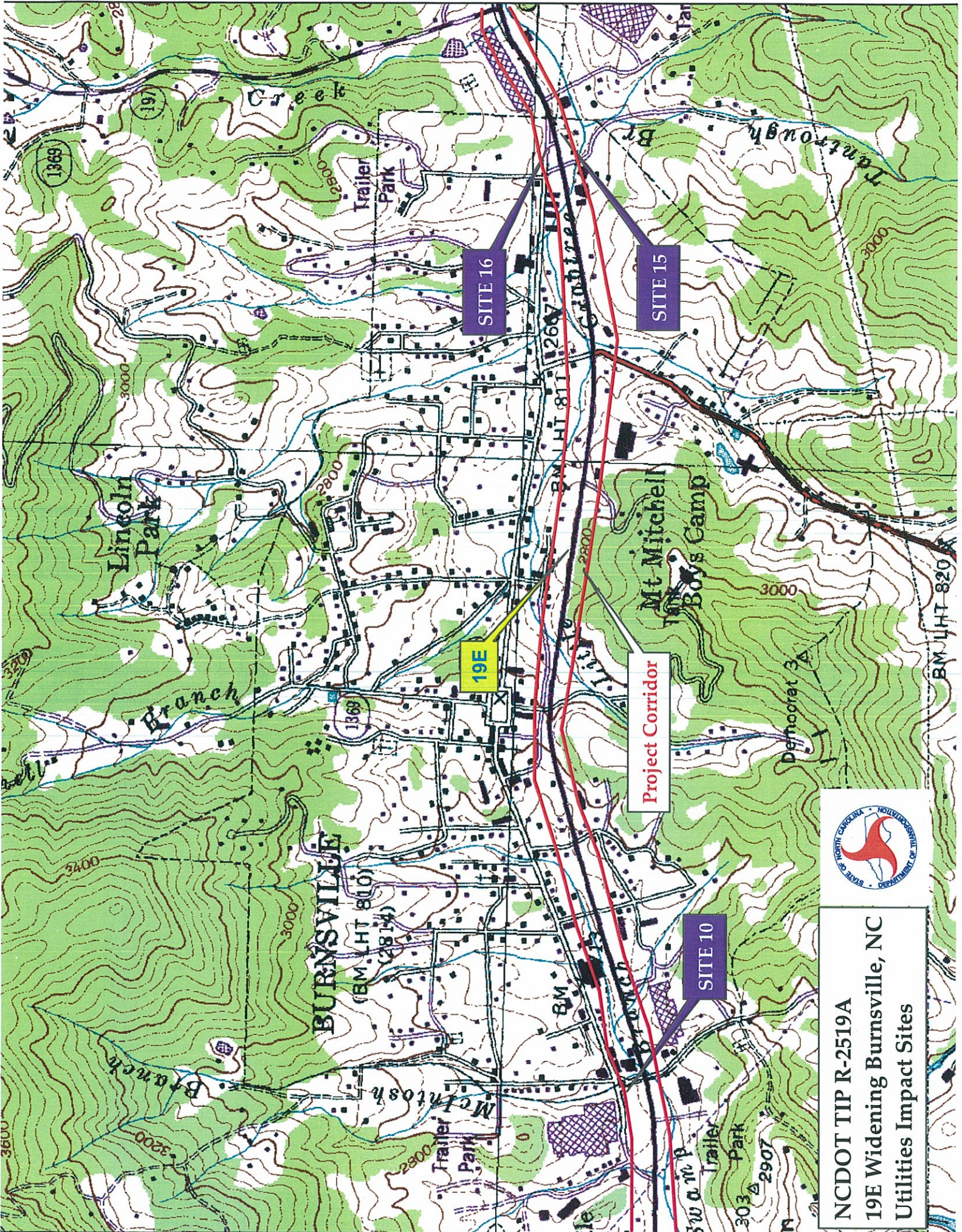
This the 1st day of April 2011

DIVISION OF WATER QUALITY

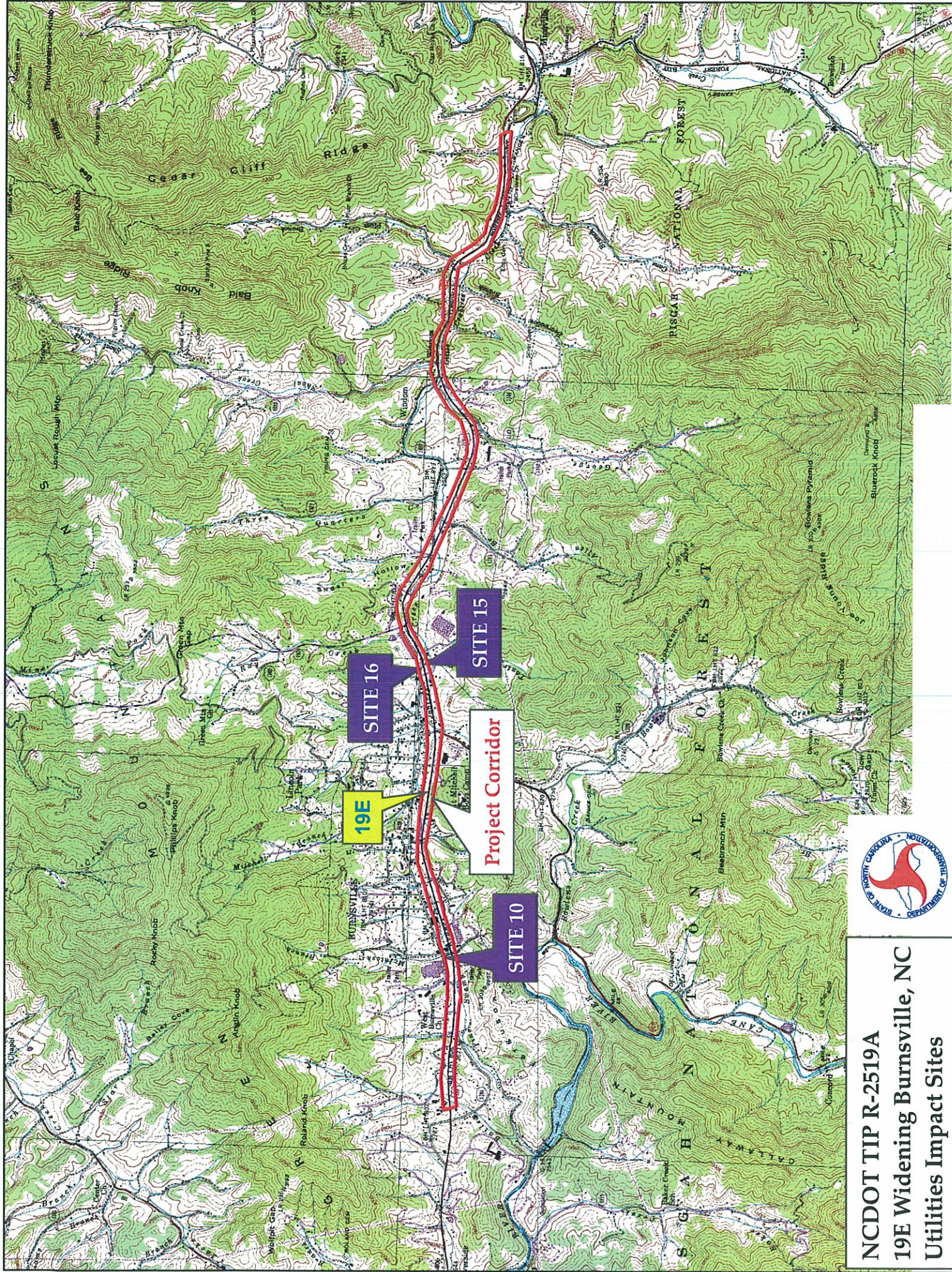
Roger C. Edwards

per Coleen H. Sullins
Director

WQC No. 3706



NCDOT TIP R-2519A
19E Widening Burnsville, NC
Utilities Impact Sites



NCDOT TIP R-2519A
19E Widening Burnsville, NC
Utilities Impact Sites

