




STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

March 17, 2005

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

FROM: Philip S. Harris, III, P.E., Manager
Office of the Natural Environment
Project Development and
Environmental Analysis Branch 

SUBJECT: New Hanover County, US 117 Castle Hayne Road to 0.5 miles
East of 23rd Street (Smith Creek Pkwy) Wilmington; Work Order
Number 8.2250101; TIP Number U-92B

Attached are the general conditions for the Division of Water Quality 401 Certification for the construction of the above referenced project.

PSH/gyb

Attachment

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



February 11, 2005
New Hanover County
DWQ Project No. 011117
TIP No. U-92B

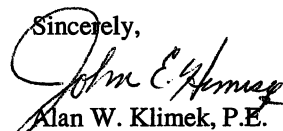
Dr. Gregory J. Thorpe, PhD., Manager
Planning & Environmental Branch
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina, 27699-1548

Dear Dr. Thorpe:

Re: Certification Pursuant to Section 401 of the Federal Clean Water Act,
Modification to the construction of Smith Creek Parkway (section B), TIP U-92B, Federal Aid Project
MANHS-0332(8), WQC Project No. 011117 (DWQ No. for original application 990611, 001045), New
Hanover County.

Attached hereto is a modification to Certification No. 3304 issued to the North Carolina Department of
Transportation on September 29, 2000. The attached modification authorizes the placement of 120 square feet
(0.003 acres) of Class I rip rap at the outlet end of the 750mm discharge pipe at Site 3, STA Y3 20+23. 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 September 29, 2000
and all other corresponding modifications still apply except where superceded by this certification.

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

Sincerely,

Alan W. Klimek, P.E.
Director

Attachments:

Modification to WQC No. 3304

cc: Wilmington District Corps of Engineers
Mr. Dave Timpy, US Army Corps of Engineers Wilmington Field Office
Mr. Ken Averitte, NC DWQ Wilmington Regional Office
Ms. Cathy Brittingham, Division of Coastal Management
Mr. H. Allen Pope, PE, Division 3 Engineer, 124 Division Drive, Wilmington, NC 28401
Mr. Mason Herndon, Division 3 Environmental Officer, 124 Division Drive, Wilmington, NC 28401
Mr. Matt Haney, ONE, 2728-168 Capital Blvd, Parker Lincoln Bldg, Raleigh, NC 27604
Central Files
File Copy

NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (DWQ) Regulations in 15 NCAC 2H, Section .0500. The attached modification authorizes the placement of 120 square feet (0.003 acres) of Class I rip rap at the outlet end of the 750mm discharge pipe at Site 3, STA Y3 20+23. 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 September 29, 2000 and all other corresponding modifications still apply except where superceded by this certification.

The application provides adequate assurance that the discharge of fill material into the proposed wetlands 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 application, as described in the Public Notice. Should your project change, you are required to notify the DWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future exceed one acre, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations.

Condition(s) of Certification:

1. Construction will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard.
 - a. The erosion and sediment control measures for the project must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Sediment and Erosion Control Planning and Design Manual. These devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - b. For borrow pit sites, the erosion and sediment control measures must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Surface Mining Manual. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
2. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the Division of Land Resources has released the project.
3. Compensatory mitigation for impacts to 0.003 acres of riverine wetlands shall be done. Applying a replacement ration of 2:1, total mitigation for 0.006 acres of riverine wetlands shall be provided as described below:

Onsite Compensatory Mitigation

For the wetland mitigation sites located from Station L 30+21 to Station L 34+03 RT, NCDOT shall plant 680 stems/acre of the approved planting list. Vegetation success shall be measured by survivability over a 5-year monitoring period. Survivability will be based on 320 stems/acre after 3 years and 260 stems after 5 years. A survey of vegetation during the growing season shall be conducted annually over the 5 year

monitoring period, and submitted to the NC Division of Water Quality. If the surviving vegetation densities are below the required thresholds after the 5-year monitoring period, the site may still be declared successful, at the discretion and with written approval from, the NC Division of Water Quality.

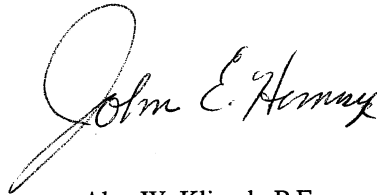
For the wetland mitigation sites located from Station L 30+21 to Station L 34+03 RT, hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils within 12 inches of the ground surface for at least 12.5 percent of the growing season, and inundation or saturation of the soils within 12 inches of the ground surface within 20 percent of hydrologic monitoring gauges located in the adjacent wetland reference. The hydrologic monitoring shall persist for a total of 5 years. In addition, after the 5-year monitoring period, if the monitoring requirements are not met, the site may still be declared successful, at the discretion, and with written approval from, the NC Division of Water Quality.

4. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened.
5. There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this permit without appropriate modification of this permit. Should waste or borrow sites be located in wetlands or stream, compensatory mitigation will be required since it is a direct impact from road construction activities;
6. All other conditions written into previous Water Quality Certifications for this project still apply.

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

If this Certification is unacceptable to you have the right to an adjudicatory hearing upon written request within sixty (60) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, P.O. Box 27447, Raleigh, N.C. 27611-7447. If modifications are made to an original Certification, you have the right to an adjudicatory hearing on the modifications upon written request within sixty (60) days following receipt of the Certification. Unless such demands are made, this Certification shall be final and binding.

This the 11th day of February 2005
DIVISION OF WATER QUALITY



Alan W. Klimek, P.E.
Director

Modification to WQC No. 3304

PROJECT COMMITMENTS

New Hanover County
Wilmington - Smith Creek Pkwy
US 117 Castle Hayne Road to 0.5 mi. East of 23rd Street
Federal Project MANHS-0332(8)
State Project 8.2250101
TIP No. U-92B

Division 3 Construction, Roadside Environmental Unit, Structure Design Unit, Project Development & Environmental Analysis (PDEA), Roadway Design Unit, Hydraulics Unit

All conditions stated in the original 404, 401 and CAMA permits, and modifications to those permits, remain in full force and effect. The only additional comments associated with this modification to DWQ Project No. 011117, WQC No. 3304 is as follows:

PDEA

Compensatory mitigation for impacts to 0.003 acres of riverine wetlands shall be done. Applying replacement ratio of 2:1, total mitigation for 0.006 acres of riverine wetlands shall be provided as described below:

Onsite Compensatory Mitigation

For the wetland mitigation sites located from Station L 30+21 to Station L 34+03 rt, NCDOT shall plant 680 stems/acre of the approved planting list. Vegetation success shall be measured by survivability over a 5-year monitoring period. Survivability will be based on 320 stems/acre after 3 years and 260 stems after 5 years. A survey of vegetation during the growing season shall be conducted annually over the 5-year monitoring period, and submitted to the NC Division of Water Quality. If the surviving vegetation densities are below the required thresholds after the 5-year monitoring period, the site may still be declared successful, at the discretion and with written approval from the NC Division of Water Quality.

For the wetland mitigation sites located from Station L 30+21 to Station L 34+03 rt, hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils within 12 inches of the ground surface for at least 12.5 percent of the growing season, and inundation or saturation of the soils within 12 inches of the ground surface within 20 percent of hydrologic monitoring gauges located in the adjacent wetland reference. The hydrologic monitoring shall persist for a total of 5 years. In addition, after the 5-year monitoring period, if the monitoring requirements are not met, the site may still be declared successful, at the discretion, and with written approval from the NC Division of Water Quality.