



PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

March 4, 2016
 Pender County
 NCDWR Project No. 20150955v.2
 Bridge 16 on NC 210/50
 TIP/State Project No. B-4929

APPROVAL of 401 WATER QUALITY CERTIFICATION, with ADDITIONAL CONDITIONS

Mr. Colin Mellor, Group Leader
 Project Development and Environmental Analysis
 North Carolina Department of Transportation
 1598 Mail Service Center
 Raleigh, North Carolina, 27699-1598

Dear Mr. Mellor

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of replacing Bridge No. 16 over the Intracoastal Waterway on NC 210/50 in Pender County:

Wetland Impacts in the White Oak River Basin

| Site | Station | Wetland Type | Fill (ac) | Fill (temporary) (ac) | Excavation (ac) | Mechanized Clearing (ac) | Hand Clearing (ac) | Total Wetland Impact (ac) |
|------------------|---------------------------|--------------|-------------|-----------------------|-----------------|--------------------------|--------------------|---------------------------|
| 1 | 12+93 to 13+23 -L1- | R | 0 | 0 | < 0.01 | < 0.01 | 0 | 0.01 |
| 2 | 18+81 to 19+19 -L2- RT | R | 0 | 0 | 0 | 0.01 | 0 | 0.01 |
| 2 | 18+57 to 19+10 -L2- LT/RT | R | 0 | 0 | 0 | 0.03 | 0 | 0.03 |
| 2 | 18+71 to 19+40 -L2- | R/CM | 0.07 | 0 | 0 | 0.04 | 0 | 0.11 |
| 3 | 12+32 to 12+45 -Y1- RT | R | < 0.01 | 0 | 0 | 0 | 0 | < 0.01 |
| 3 | 12+62 to 15+98 -Y1- | R | 0.45 | 0 | 0 | 0 | 0 | 0.45 |
| 3 | 13+02 to 16+03 -Y1- LT | R | 0 | 0 | 0 | 0.04 | 0 | 0.04 |
| 3 | 12+28 to 15+28 -Y1- RT | R | 0 | 0 | 0 | 0.05 | 0 | 0.05 |
| 4 | 19+26 to 57+00 -L2- | R/CM | 0.04 | 0.03 | 0 | 0 | 0 | 0.07 |
| 5 | 55+76 to 56+10 -L2- RT | CM | 0 | 0 | < 0.01 | < 0.01 | 0 | 0.01 |
| 6 | 13+57 to 13+81 -Y3- RT | CM | 0 | 0 | 0 | 0 | < 0.01 | < 0.01 |
| 7 | 39+88 to 40+07 -Y2- RT | CM | 0 | 0 | 0 | 0 | < 0.01 | < 0.01 |
| UTILITIES | | | | | | | | |
| U1 | 10+74 to 11+08 -L1- | R | 0 | 0 | 0 | 0 | < 0.01 | < 0.01 |
| U2 | 11+53 to 13+26 -L1- | R | 0 | < 0.01 | < 0.01 | 0 | 0.14 | 0.14 |
| U3 | 18+52 to 21+04 -L2- | R | 0 | < 0.01 | < 0.01 | 0 | 0.17 | 0.17 |
| U3C | 19+49 to 21+04 -L- | CM | 0 | < 0.01 | < 0.01 | 0 | 0.10 | 0.10 |
| Total | | | 0.57 | 0.03 | 0.01 | 0.19 | 0.41 | 1.21 |

Total Wetland Impact for Project: 1.21 acres.

Open Water (Sound) Impacts in the White Oak River Basin

| Site | Station | Permanent Fill in Open Waters (ac) | Temporary Fill in Open Waters (ac) | Total Fill in Open Waters (ac) |
|--------------|---------------------|------------------------------------|------------------------------------|--------------------------------|
| 4 | 19+26 to 57+00 -L2- | 0.02 | 0 | 0.02 |
| Total | | 0.02 | 0 | 0.02 |

Total Open Water Impact for Project: 0.02 acres.

The project shall be constructed in accordance with your application dated received February 4, 2016 and revision received on February 10, 2016. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3886 and 3884. This certification corresponds to the General Permit 31 and Nationwide Permit 12 issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the NCDWR 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, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

Condition(s) of Certification:

Project Specific Conditions

1. The NCDOT Division Environmental Officer or Environmental Assistant will conduct a pre-construction meeting with all appropriate staff to ensure that the project supervisor and essential staff understand the potential issues with permits conditions, water quality regulations and NCDOT NPDES permit requirements. NCDWR staff shall be invited to the pre-construction meeting. [15A NCAC 02H.0506(b)(2) and (b)(3)]
2. As a condition of this 401 Water Quality Certification, the bridge demolition and construction must be accomplished in strict compliance with the most recent version of NCDOT's Best Management Practices for Construction and Maintenance Activities. [15A NCAC 02H .0507(d)(2) and 15A NCAC 02H .0506(b)(5)].
3. The permittee will need to adhere to all appropriate in-water work moratoria (including the use of pile driving or vibration techniques) prescribed by the NC Division of Marine Fisheries. No in-water work is permitted between April 1 and September 30 of any year, without prior approval from the NC Division of Water Resources and the NC Division of Marine Fisheries. In addition, the permittee shall conform to the NCDOT policy entitled "Stream Crossing Guidelines for Anadromous Fish Passage (May 12, 1997) at all times. [15A NCAC 02H.0506(b)(2) and 15A NCAC 04B.0125]
4. Adherence to *The Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters* will be required throughout construction. [15A NCAC 02H.0506(b)(2) and 15A NCAC 04B.0125]
5. All bridge construction shall be performed from the existing bridge, temporary work bridges, temporary causeways, or floating or sunken barges. If work conditions require barges, they shall be floated into position and then sunk. The barges shall not be sunk and then dragged into position. Under no circumstances should barges be dragged along the bottom of the surface water. [15A NCAC 02H .0506(b)(3)]

6. Erosion control matting placed in riparian areas shall not contain a nylon mesh grid, which can impinge and entrap small animals. Matting should be secured in place with staples, stakes, or wherever possible, live stakes of native trees. Riparian areas are defined as a distance 25 feet landward from top of stream bank. [15A NCAC 02H.0506(b)(3) and (c)(3)]
7. Bridge piles and bents shall be constructed using driven piles (hammer or vibratory) or drilled shaft construction methods. More specifically, jetting or other methods of pile driving are prohibited without prior written approval from the NCDWR first. [15A NCAC 02H.0506(b)(2)]
8. No drill slurry or water that has been in contact with uncured concrete shall be allowed to enter surface waters. This water shall be captured, treated, and disposed of properly. [15A NCAC 02H .0506(b)(3)]
9. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, infiltration basins, etc.) before entering the stream to the maximum extent practical as described in the Stormwater Management Plan dated January 28, 2016. [15A NCAC 02H .0507(d)(2) and 15A NCAC 02H .0506(b)(5)]
10. The project shall be constructed in accordance with the provisions of the NCDOT's National Pollutant Discharge Elimination (NPDES) Stormwater Permit NCS000250, including the applicable requirements of the NCG01000. Please note the extra protections for the sensitive watersheds. [15A NCAC 02B.0211].

General Conditions

11. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and downstream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWR. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWR for guidance on how to proceed and to determine whether or not a permit modification will be required. [15A NCAC 02H.0506(b)(2)]
12. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills. [15A NCAC 02B.0200]
13. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers. [15A NCAC 02H.0506(b)(2)]
14. 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. [15A NCAC 02H.0506(b)(2)]
15. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage. [15A NCAC 02H.0506(b)(2)]
16. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
17. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water. [15A NCAC 02H.0506(b)(3) and (c)(3)]

18. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream. [15A NCAC 02H.0506(b)(3)]
19. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials. [15A NCAC 02H.0506(b)(3)]
20. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification. [15A NCAC 02H.0506(b)(3)]
21. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited. [15A NCAC 02H.0506(b)(3)]
22. The permittee 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 and Federal law. If the NCDWR 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, the NCDWR may reevaluate and modify this certification. [15A NCAC 02B.0200]
23. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification. [15A NCAC 02H.0506(b)(2)]
24. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
25. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization, including all non-commercial borrow and wastes sites associated with the project, shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification. [15A NCAC 02H.0501 and .0502]
26. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
27. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery. [15A NCAC 02B.0506(b)(2)]
28. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]
29. Native riparian vegetation must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction.[15A NCAC 02B. 0506(b)(2)]
30. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.[15A NCAC 02H.0506(b)(3) and (c)(3)]
31. 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 waters standards [15A NCAC 02H.0506(b)(3) and (c)(3)]:

- a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The 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.
 - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
 - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
32. Where placement of sediment and erosion control devices in wetlands and/or waters is unavoidable at site, they shall be removed and the natural grade restored upon completion of the project. [15A NCAC 02H.0506(b)(3) and (c)(3)]

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) 431-3000, Facsimile: (919) 431-3100

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

Mr. Sam M. Hayes, General Counsel
Department of Environmental Quality
1601 Mail Service Center

This letter completes the review of the Division of Water Resources under Section 401 of the Clean Water Act. If you have any questions, please contact Mason Herndon at (910) 308-4021 or mason.herndon@ncdenr.gov.

Sincerely,



S. Jay Zimmerman, Director
Division of Water Resources

Electronic copy only distribution:

Brad Shaver, US Army Corps of Engineers, Wilmington Field Office
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Director

NCDWR Project No.: _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401 Transportation Permitting Unit, North Carolina Division of Water Resources, 1617 Mail Service Center, Raleigh, NC, 27699-1617. This form may be returned to NCDWR by the applicant, the applicant's authorized agent, or the project engineer. It is not necessary to send certificates from all of these.

Applicant's Certification

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

Signature: _____ Date: _____

Agent's Certification

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

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

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

Signature _____ Registration No. _____

Date _____