STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

April 5, 2011

Attention: Mike Summers
NCDOT Bridge Unit Project Manager

Subject: Proposed replacement of Bridge No. 61 over Sandy Creek on SR 1451 (Leonard Road) in Franklin County. TIP No. B-5218; WBS Element No. 42815.1.1

The North Carolina Department of Transportation (NCDOT) proposes to replace Bridge No. 61 over Sandy Creek on SR 1451 in Franklin County. A permit application for this work was sent the United States Army Corps of Engineers (USACE) and North Carolina Department of Environment and Natural Resources-Division of Water Quality (NCDENR-DWQ) on February 14, 2011. The USACE issued Department of the Army Section 404 Nationwide Permits (NWPs) 3 and 13 for this project on April 4, 2011 and the NCDENR-DWQ issued Section 401 Water Quality Certifications (WQCs) No. 3687 and 3689 on February 23, 2011. The NCDOT permit application and regulatory agency permits are attached to this letter. Note that the USACE Nationwide permits expire on March 18, 2012.

A Biological Conclusion of May Affect: Not Likely to Adversely Affect was rendered for dwarf wedgemussel and Tar River Spinymussel by the NCDOT. The USFWS concurred with these findings by letter dated February 2, 2011. Information concerning project commitments associated with these two mussel species is attached to this letter.

By copy of this letter, I am informing you that you can proceed with construction. Construction of the project must comply with all applicable project commitments and NWP/WQC conditions, which are attached to this letter. **A copy of the pre-construction notification form (PCN), permit drawings, regulatory permits and project commitments associated with the two mussel species must be included as part of the bid information to the contractor.** Please inform me of the time and location of the pre-bid meeting for this project. I am available to discuss any permitting information associated with this project with prospective bidders. If you have any questions or need additional information, please contact me at (919) 220-4633.

Sincerely,

Christopher A. Murray, P.W.S.
Division 5 Environmental Supervisor

Division Five – 2612 North Duke Street, Durham, North Carolina 27704
Telephone: 919-220-4633 Fax: 919-560-3371

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

EUGENE A. CONTI, JR.
SECRETARY

February 14, 2011

USACE
Raleigh Regulatory Field Office
3331 Heritage Trade Drive
Suite 105
Wake Forest, NC 27587

Attention: Eric Alsmeyer
NCDOT Coordinator

Subject: Replacement of Bridge No. 61 over Sandy Creek on SR 1451 (Leonard Road) in Franklin County. TIP No. B-5218; WBS Element No. 42815.1.1

*Note: NCDENR-DWQ $240.00 Debit to WBS Element No. 42815.1.1

Dear Sir:

The North Carolina Department of Transportation (NCDOT) proposes to replace Bridge No. 61 over Sandy Creek on SR 1451 (Leonard Road) in Franklin County. The existing five-span bridge, which has three in-stream piles, will be replaced with a new bridge structure. This new structure completely spans Sandy Creek and significantly increases the spill through under the bridge deck.

There will be 35 linear feet of permanent stream impact associated with rip rap streambank stabilization. Additionally, there will be 0.10 acre permanent fill in wetlands, 0.08 acre temporary fill in wetlands and 0.07 hand clearing impact. Sandy Creek is subject to the Tar-Pam Riparian Buffer Rule. Buffer impacts here include 3,940 square feet in Zone 1 and 2,820 square feet in Zone 2.

A Biological Conclusion of May Affect: Not Likely To Adversely Affect was rendered for dwarf wedgemussel and Tar River Spinymussel was proposed by the NCDT. The USFWS concurred with these findings be letter dated February 2, 2011. These documents are attached to the permit application.

A pre-construction notification (PCN) form is attached to this letter. A Categorical Exclusion (Type IIB) will be completed for this project. If you have any questions or need additional information, please contact Mr. Chris Murray at (919) 220-4633.

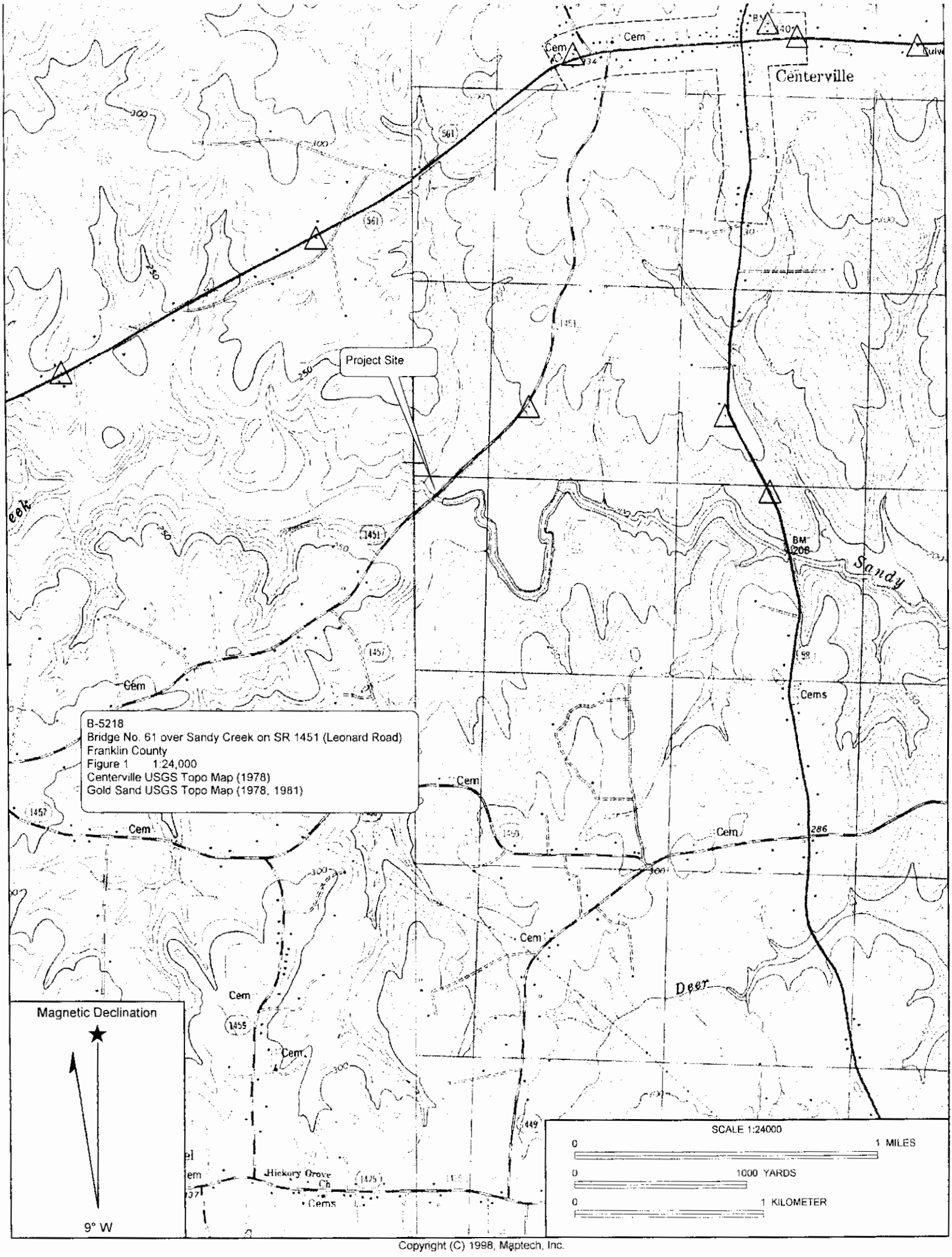
Sincerely,

Chris A. Murray for

J. W. Bowman, P.E.
Division Engineer

c: Division 5 file, NCDOT
Roo Ridings, NCDENR-DWQ

Division Five 2612 North Duke Street, Durham, North Carolina 27704
Telephone: 919-220-4600 Fax: 919-560-3371



PCN Form

Office Use Only:
Corps action ID no. _____
DWQ project no. _____
Form Version 1.3 Dec 10 2008

Pre-Construction Notification (PCN) Form

A. Applicant Information

1. Processing

1a. Type(s) of approval sought from the Corps:	☒ Section 404 Permit	☐ Section 10 Permit
1b. Specify Nationwide Permit (NWP) number: 3 and 13	or General Permit (GP) number:	
1c. Has the NWP or GP number been verified by the Corps?	☐ Yes	☐ No

1d. Type(s) of approval sought from the DWQ (check all that apply):

☒ 401 Water Quality Certification – Regular ☐ Non-404 Jurisdictional General Permit

☐ 401 Water Quality Certification – Express ☒ Riparian Buffer Authorization

1e. Is this notification solely for the record because written approval is not required?	For the record only for DWQ 401 Certification: ☐ Yes ☒ No	For the record only for Corps Permit: ☐ Yes ☒ No
1f. Is payment into a mitigation bank or in-lieu fee program proposed for mitigation of impacts? If so, attach the acceptance letter from mitigation bank or in-lieu fee program.	☐ Yes	☒ No
1g. Is the project located in any of NC's twenty coastal counties. If yes, answer 1h below.	☐ Yes	☒ No
1h. Is the project located within a NC DCM Area of Environmental Concern (AEC)?	☐ Yes	☒ No

2. Project Information

2a. Name of project:	Replacement of Bridge No. 61 over Sandy Creek on SR 1451 (Leonard Road)
2b. County:	Franklin
2c. Nearest municipality / town:	Centerville
2d. Subdivision name:	
2e. NCDOT only, T.I.P. or state project no:	B-5218

3. Owner Information

3a. Name(s) on Recorded Deed:	NCDOT
3b. Deed Book and Page No.	
3c. Responsible Party (for LLC if applicable):	
3d. Street address:	
3e. City, state, zip:	
3f. Telephone no.:	
3g. Fax no.:	
3h. Email address:	

4. Applicant Information (if different from owner)	
4a. Applicant is:	☐ Agent ☐ Other, specify:
4b. Name:	
4c. Business name (if applicable):	
4d. Street address:	
4e. City, state, zip:	
4f. Telephone no.:	
4g. Fax no.:	
4h. Email address:	
5. Agent/Consultant Information (if applicable)	
5a. Name:	
5b. Business name (if applicable):	
5c. Street address:	
5d. City, state, zip:	
5e. Telephone no.:	
5f. Fax no.:	
5g. Email address:	

B. Project Information and Prior Project History	
1. Property Identification	
1a. Property identification no. (tax PIN or parcel ID):	N/A
1b. Site coordinates (in decimal degrees):	Latitude: 36.165120 (DD.DDDDDD) Longitude: -78.123856 (-DD.DDDDDD)
1c. Property size:	2.3 acres
2. Surface Waters	
2a. Name of nearest body of water (stream, river, etc.) to proposed project:	Sandy Creek
2b. Water Quality Classification of nearest receiving water:	C NSW
2c. River basin:	Tar-Pamlico
3. Project Description	
3a. Describe the existing conditions on the site and the general land use in the vicinity of the project at the time of this application: Existing bridge is structurally deficient and must be replaced. Land use in vicinity of project is comprised of wooded land.	
3b. List the total estimated acreage of all existing wetlands on the property: 0.25	
3c. List the total estimated linear feet of all existing streams (intermittent and perennial) on the property: 90 ft in 90 ft Right-Of-Way and Permanent Utility Easement	
3d. Explain the purpose of the proposed project: Replacement of structurally deficient bridge.	
3e. Describe the overall project in detail, including the type of equipment to be used: Replacement of existing bridge with a new bridge. Equipment will include excavator, back hoe, crane, etc.	
4. Jurisdictional Determinations	
4a. Have jurisdictional wetland or stream determinations by the Corps or State been requested or obtained for this property / project (including all prior phases) in the past? Comments:	☒ Yes ☐ No ☐ Unknown
4b. If the Corps made the jurisdictional determination, what type of determination was made?	☒ Preliminary ☐ Final
4c. If yes, who delineated the jurisdictional areas? Name (if known): Phil May on March 10, 2010	Agency/Consultant Company: Carolina Ecosystems, Inc. Other:
4d. If yes, list the dates of the Corps jurisdictional determinations or State determinations and attach documentation. Action ID No. 2010-01416 dated January 18, 2011	
5. Project History	
5a. Have permits or certifications been requested or obtained for this project (including all prior phases) in the past?	☐ Yes ☒ No ☐ Unknown
5b. If yes, explain in detail according to "help file" instructions.	
6. Future Project Plans	
6a. Is this a phased project?	☐ Yes ☒ No
6b. If yes, explain.	

C. Proposed Impacts Inventory

1. Impacts Summary

1a. Which sections were completed below for your project (check all that apply):

☒ Wetlands ☒ Streams - tributaries ☒ Buffers

☐ Open Waters ☐ Pond Construction

2. Wetland Impacts

If there are wetland impacts proposed on the site, then complete this question for each wetland area impacted.

2a. Wetland impact number – Permanent (P) or Temporary (T)	2b. Type of impact	2c. Type of wetland (if known)	2d. Forested	2e. Type of jurisdiction (Corps - 404, 10 DWQ – non-404, other)	2f. Area of impact (acres)
W1 ☒ P ☐ T	Permanent Fill	Bottomland HWF	☒ Yes ☐ No	☒ Corps ☒ DWQ	0.10
W2 ☐ P ☒ T	Temporary Fill	Bottomland HWF	☒ Yes ☐ No	☒ Corps ☒ DWQ	0.08
W3 ☐ P ☐ T	Hand Clearing	Bottomland HWF	☒ Yes ☐ No	☒ Corps ☒ DWQ	0.07
W4 ☐ P ☐ T			☐ Yes ☐ No	☐ Corps ☐ DWQ	
W5 ☐ P ☐ T			☐ Yes ☐ No	☐ Corps ☐ DWQ	
W6 ☐ P ☐ T			☐ Yes ☐ No	☐ Corps ☐ DWQ	
2g. **Total wetland impacts**					0.25

2h. Comments: Temporary fill impact area covers installation of EC devices and clearing/grubbing.

3. Stream Impacts

If there are perennial or intermittent stream impacts (including temporary impacts) proposed on the site, then complete this question for all stream sites impacted.

3a. Stream impact number - Permanent (P) or Temporary (T)	3b. Type of impact	3c. Stream name	3d. Perennial (PER) or intermittent (INT)?	3e. Type of jurisdiction (Corps - 404, 10 DWQ – non-404, other)	3f. Average stream width (feet)	3g. Impact length (linear feet)
S1 ☐ P ☒ T	Temporary causeway	Sandy Creek	☒ PER ☐ INT	☒ Corps ☒ DWQ	60 ft	35 ft
S2 ☒ P ☐ T	Rip rap bank stabilization	Sandy Creek	☒ PER ☐ INT	☒ Corps ☒ DWQ	60 ft	35 ft (Concurrent)
S3 ☐ P ☐ T			☐ PER ☐ INT	☐ Corps ☐ DWQ		
S4 ☐ P ☐ T			☐ PER ☐ INT	☐ Corps ☐ DWQ		
S5 ☐ P ☐ T			☐ PER ☐ INT	☐ Corps ☐ DWQ		
S6 ☐ P ☐ T			☐ PER ☐ INT	☐ Corps ☐ DWQ		
3h. **Total stream and tributary impacts**						56 ft

3i. Comments: Construction of bridge will require installation of a temporary rip rap causeway to remove the existing three in-stream bents. Rip rap used in the causeway will be completely removed by the contractor except as noted on the plans. The plans indicate that rip rap (underlain with filter fabric) will remain on both streambanks extending from below the OHW mark up to the new upland piles to provide long-term stability. Note that the 35 ft of temporary impacts for causeway is concurrent with the limits of the permanent streambank impact.

4. Open Water Impacts

If there are proposed impacts to lakes, ponds, estuaries, tributaries, sounds, the Atlantic Ocean, or any other open water of the U.S. then individually list all open water impacts below.

4a. Open water impact number – Permanent (P) or Temporary (T)	4b. Name of waterbody (if applicable)	4c. Type of impact	4d. Waterbody type	4e. Area of impact (acres)
O1 ☐ P ☐ T				
O2 ☐ P ☐ T				
O3 ☐ P ☐ T				
O4 ☐ P ☐ T				
4f. Total open water impacts				0.0

4g. Comments:

5. Pond or Lake Construction

If pond or lake construction proposed, then complete the chart below.

5a. Pond ID number	5b. Proposed use or purpose of pond	5c. Wetland Impacts (acres)			5d. Stream Impacts (feet)			5e. Upland (acres)
		Flooded	Filled	Excavated	Flooded	Filled	Excavated	Flooded
P1								
P2								
5f. Total								

5g. Comments:

5h. Is a dam high hazard permit required?	☐ Yes ☐ No If yes, permit ID no:
5i. Expected pond surface area (acres):	
5j. Size of pond watershed (acres):	
5k. Method of construction:	

6. Buffer Impacts (for DWQ)

If project will impact a protected riparian buffer, then complete the chart below. If yes, then individually list all buffer impacts below. If any impacts require mitigation, then you **MUST** fill out Section D of this form.

6a. Project is in which protected basin?	☐ Neuse ☒ Tar-Pamlico ☐ Other: ☐ Catawba ☐ Randleman				
6b. Buffer impact number – Permanent (P) or Temporary (T)	6c. Reason for impact	6d. Stream name	6e. Buffer mitigation required?	6f. Zone 1 impact (square feet)	6g. Zone 2 impact (square feet)
B1 ☒ P ☒ T	Bridge Const.	Sandy Creek	☐ Yes ☒ No	1,495	1,380
B2 ☐ P ☒ T	Utility	Sandy Creek	☐ Yes ☒ No	2,445	1,440
B3 ☐ P ☐ T			☐ Yes ☐ No		
		6h. **Total buffer impacts**		3,940	2,820

6i. Comments: Bridge construction impacts and utility impacts (i.e. hand clearing) for aerial phone lines are "allowable" activities.

D. Impact Justification and Mitigation

1. Avoidance and Minimization

1a. Specifically describe measures taken to avoid or minimize the proposed impacts in designing project.
Construction of bridge will require installation of a temporary rip rap causeway to remove the existing interior piles. Most of the rip rap in the water (i.e. causeway) will be removed. Rip rap will remain only on the bank for permanent stability. Impacts to wetlands outside the permanent fill are considered temporary.

1b. Specifically describe measures taken to avoid or minimize the proposed impacts through construction techniques.
The contractor will review site conditions to determine how much of the temporary causeway is necessary to remove the existing interior piles. All efforts will be made during construction to minimize impacts to both streams and wetlands.

2. Compensatory Mitigation for Impacts to Waters of the U.S. or Waters of the State

2a. Does the project require Compensatory Mitigation for impacts to Waters of the U.S. or Waters of the State?	☐ Yes ☐ No
2b. If yes, mitigation is required by (check all that apply):	☐ DWQ ☐ Corps
2c. If yes, which mitigation option will be used for this project?	☐ Mitigation bank ☐ Payment to in-lieu fee program ☐ Permittee Responsible Mitigation

3. Complete if Using a Mitigation Bank

3a. Name of Mitigation Bank:

3b. Credits Purchased (attach receipt and letter)	Type	Quantity

3c. Comments:	
4. Complete if Making a Payment to In-lieu Fee Program	
4a. Approval letter from in-lieu fee program is attached.	☐ Yes
4b. Stream mitigation requested:	linear feet
4c. If using stream mitigation, stream temperature:	☐ warm ☐ cool ☐ cold
4d. Buffer mitigation requested (DWQ only):	square feet
4e. Riparian wetland mitigation requested:	acres
4f. Non-riparian wetland mitigation requested:	acres
4g. Coastal (tidal) wetland mitigation requested:	acres
4h. Comments:	
5. Complete if Using a Permittee Responsible Mitigation Plan	
5a. If using a permittee responsible mitigation plan, provide a description of the proposed mitigation plan. NCDOT will provide mitigation through the EEP if requested by the regulatory agencies. This mitigation, if requested, is reported by Division 5 on a quarterly basis to the EEP.	
6. Buffer Mitigation (State Regulated Riparian Buffer Rules) – required by DWQ	
6a. Will the project result in an impact within a protected riparian buffer that requires buffer mitigation?	☐ Yes ☒ No
6b. If yes, then identify the square feet of impact to each zone of the riparian buffer that requires mitigation. Calculate the amount of mitigation required.	

Zone	6c. Reason for impact	6d. Total impact (square feet)	Multiplier	6e. Required mitigation (square feet)
Zone 1			3 (2 for Catawba)	
Zone 2			1.5	
		6f. **Total buffer mitigation required:**		

6g. If buffer mitigation is required, discuss what type of mitigation is proposed (e.g., payment to private mitigation bank, permittee responsible riparian buffer restoration, payment into an approved in-lieu fee fund).
6h. Comments: Zone 1 and Zone 2 impacts are associated with bridge construction and utility clearing activity. Both these activities are listed as "allowable."

E. Stormwater Management and Diffuse Flow Plan (required by DWQ)	
1. Diffuse Flow Plan	
1a. Does the project include or is it adjacent to protected riparian buffers identified within one of the NC Riparian Buffer Protection Rules?	☒ Yes ☐ No
1b. If yes, then is a diffuse flow plan included? If no, explain why. Comments: Stormwater runoff from the project is conveyed through a pipe system that discharges onto a rip rap pad in a bottomland hardwood wetland.	☒ Yes ☐ No
2. Stormwater Management Plan	
2a. What is the overall percent imperviousness of this project?	20 %
2b. Does this project require a Stormwater Management Plan?	☒ Yes ☐ No
2c. If this project DOES NOT require a Stormwater Management Plan, explain why:	
2d. If this project DOES require a Stormwater Management Plan, then provide a brief, narrative description of the plan: Construction of this project WILL NOT add any additional impervious surface at the project. Stormwater runoff from the project is discharged through a pipe system that discharges onto a rip rap pad in a bottomland hardwood wetland.	
2e. Who will be responsible for the review of the Stormwater Management Plan?	☐ Certified Local Government ☐ DWQ Stormwater Program ☒ DWQ 401 Unit
3. Certified Local Government Stormwater Review	
3a. In which local government's jurisdiction is this project?	N/A
3b. Which of the following locally-implemented stormwater management programs apply (check all that apply):	☐ Phase II ☐ NSW ☐ USMP ☐ Water Supply Watershed ☐ Other:
3c. Has the approved Stormwater Management Plan with proof of approval been attached?	☐ Yes ☐ No
4. DWQ Stormwater Program Review	
4a. Which of the following state-implemented stormwater management programs apply (check all that apply):	☐ Coastal counties ☐ HQW ☐ ORW ☐ Session Law 2006-246 ☐ Other:
4b. Has the approved Stormwater Management Plan with proof of approval been attached?	☐ Yes ☐ No
5. DWQ 401 Unit Stormwater Review	
5a. Does the Stormwater Management Plan meet the appropriate requirements?	☐ Yes ☐ No
5b. Have all of the 401 Unit submittal requirements been met?	☐ Yes ☐ No

F. Supplementary Information		
1. Environmental Documentation (DWQ Requirement)		
1a. Does the project involve an expenditure of public (federal/state/local) funds or the use of public (federal/state) land?	☒ Yes	☐ No
1b. If you answered "yes" to the above, does the project require preparation of an environmental document pursuant to the requirements of the National or State (North Carolina) Environmental Policy Act (NEPA/SEPA)?	☐ Yes	☒ No
1c. If you answered "yes" to the above, has the document review been finalized by the State Clearing House? (If so, attach a copy of the NEPA or SEPA final approval letter.) Comments:	☐ Yes	☐ No
2. Violations (DWQ Requirement)		
2a. Is the site in violation of DWQ Wetland Rules (15A NCAC 2H .0500), Isolated Wetland Rules (15A NCAC 2H .1300), DWQ Surface Water or Wetland Standards, or Riparian Buffer Rules (15A NCAC 2B .0200)?	☐ Yes	☒ No
2b. Is this an after-the-fact permit application?	☐ Yes	☒ No
2c. If you answered "yes" to one or both of the above questions, provide an explanation of the violation(s):		
3. Cumulative Impacts (DWQ Requirement)		
3a. Will this project (based on past and reasonably anticipated future impacts) result in additional development, which could impact nearby downstream water quality?	☐ Yes	☒ No
3b. If you answered "yes" to the above, submit a qualitative or quantitative cumulative impact analysis in accordance with the most recent DWQ policy. If you answered "no," provide a short narrative description.		
4. Sewage Disposal (DWQ Requirement)		
4a. Clearly detail the ultimate treatment methods and disposition (non-discharge or discharge) of wastewater generated from the proposed project, or available capacity of the subject facility. Project will not generate sewage disposal.		

5. Endangered Species and Designated Critical Habitat (Corps Requirement)		
5a. Will this project occur in or near an area with federally protected species or habitat?	☒ Yes	☐ No
5b. Have you checked with the USFWS concerning Endangered Species Act impacts?	☒ Yes	☐ No
5c. If yes, indicate the USFWS Field Office you have contacted.	☒ Raleigh ☐ Asheville	
5d. What data sources did you use to determine whether your site would impact Endangered Species or Designated Critical Habitat? Consultation with PDEA-NEU biologists and USFWS.		
6. Essential Fish Habitat (Corps Requirement)		
6a. Will this project occur in or near an area designated as essential fish habitat?	☐ Yes	☒ No
6b. What data sources did you use to determine whether your site would impact Essential Fish Habitat? Available mapping.		
7. Historic or Prehistoric Cultural Resources (Corps Requirement)		
7a. Will this project occur in or near an area that the state, federal or tribal governments have designated as having historic or cultural preservation status (e.g., National Historic Trust designation or properties significant in North Carolina history and archaeology)?	☐ Yes	☒ No
7b. What data sources did you use to determine whether your site would impact historic or archeological resources? Consultation with NCDOT Cultural Resources Experts.		
8. Flood Zone Designation (Corps Requirement)		
8a. Will this project occur in a FEMA-designated 100-year floodplain?	☒ Yes	☐ No
8b. If yes, explain how project meets FEMA requirements: Project lowers the 100-yr floodplain elevations at the site.		
8c. What source(s) did you use to make the floodplain determination? Available mapping.		

Chris Murray for J.W. Bowman, PE Applicant/Agent's Printed Name	Applicant/Agent's Signature (Agent's signature is valid only if an authorization letter from the applicant is provided.)	February 14, 2011 Date

Roadway and Bridge Permit Drawings

WETLANDS / STREAM IMPACTS

PROJECT REFERENCE NO.	SHEET NO.
B-5218	4
R/W SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

INCOMPLETE PLANS
DO NOT USE FOR R/W ACQUISITION

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

WETHERILL ENGINEERING
359 James Franklin Rd. Suite
Raleigh, N.C. 276
Hillsborough, N.C. 27
Phone: 919 851 80
Fax: 919 851 81

TRANSPORTATION PLANNING/DESIGN - BRIDGE/STRUCTURE DESIGN
CIVIL/SITE DESIGN - GIS/GPS - CONSTRUCTION OBSERVATION

8/17/99

REVISIONS

NAD 83

-L- POT Sta. 10+00.00

-L- POT Sta. 17+61.70

SITE 1

END NCDOT PROJECT
-L- STA. 17+50.00

BEGIN NCDOT PROJECT
-L- STA. 10+05.00

1 ELWOOD FRANK BALASH
DB 976 PG 806

2 ELWOOD FRANK BALASH
DB 976 PG 806

3 SHELIA F. ALLEN and, GEORGETTE F. BAKER
DB 1565 PG 704

4 SHELIA F. ALLEN and, GEORGETTE F. BAKER
DB 1565 PG 704

DETAIL A
TOE PROTECTION
(Not to Scale)

Natural Ground
2:1 or Flatter Fill Slope
b
d
Filter Fabric

d= 3.0 Ft.
b= 3.0 Ft.

Type of Liner = Class B Rip-Rap

FROM STA. 10+30 TO STA. 11+81 LT -L-
FROM STA. 15+90 TO STA. 17+10 LT -L-
FROM STA. 11+50 TO STA. 12+11 RT -L-

DETAIL B
RIP RAP AT EMBANKMENT
(Not to Scale)

Proposed Pier
Proposed Pier Excavation
Filter Fabric
1.5' Min.
10-15'
6-11'

Type of Liner = 90 TONS, CL II Rip-Rap
Filter Fabric = 120 sy.

STA. 13+03 -L- LT/RT
STA. 13+75 -L- LT/RT

DENOTES FILL IN WETLAND

DENOTES TEMPORARY FILL IN WETLAND

SCALE 1" = 50'

CLASS 'B' RIP RAP
EST. 1 TON
EST. 3 SY FF

TOP OF BANK

TOE PROTECTION SEE DETAIL A EST. 50 TONS EST. 110 SY FF

TOE PROTECTION SEE DETAIL A EST. 20 TONS EST. 45 SY FF

TOE PROTECTION SEE DETAIL A EST. 40 TONS EST. 80 SY FF

TEMPORARY FILL IN WETLAND

PERMANENT FILL IN WETLAND

TEMPORARY SW IMPACTS

PERMANENT SW IMPACTS APPROX. 25' WHERE RIP RAP IS TO REMAIN ON STREAMBANK

SANDY CREEK

WOODS

50' TAPER

22' TYP.

BL 1
-L- STA. 12+71.61 12.91' RT.
EL. 207.120

BL 2
-L- STA. 10+65.00 13.75' RT.
EL. 207.206

BL 3
-L- STA. 14+66.61 12.73' RT.
EL. 207.631

BL 4
-L- STA. 16+55.60 13.33' RT.
EL. 207.284

BM-1 IN 18" SWEET GUM
ELEV.=200.23'

BM-1R IN 18" SWEET GUM
N 4,407,676.91
-L- STA. 14+83.78
ELEV.=200.23

WATERS EDGE

TOP OF BANK

173.57'

STRUCTURE HYDRAULIC DATA

DESIGN DISCHARGE	= 5300	CFS
DESIGN FREQUENCY	= 25	YRS
DESIGN HW ELEVATION	= 2054	FT
BASE DISCHARGE	= 13200	CFS
BASE FREQUENCY	= 100	YRS
BASE HW ELEVATION	= 2054	FT
OVERTOPPING DISCHARGE	= 19000	CFS
OVERTOPPING FREQUENCY	= 47-500	YRS
OVERTOPPING ELEVATION	= 2057	FT

SKETCH SHOWING BRIDGE/PAVEMENT RELATIONSHIP

Detail Showing Method of Wedging

DEPARTMENT OF TRANSPORTATION
TIP. NO. B-5218
FRANKLIN COUNTY
STATION: 13+68.04 -L-
REPLACES BRIDGE NO. 27

10 11 12 13 14 15

220 210 200 190

WETLAND PERMIT IMPACT SUMMARY

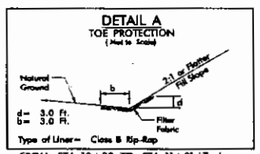
Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS					SURFACE WATER IMPACTS				
			Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)
1	10+15 LT. TO 12+20 LT.		0.06	0.03								
		1 @ 50', 1 @ 95',										
1	11+05 RT. TO 12+60 RT.	1@ 50', 1 @ 65'	0.01	0.03								
		39" BOX BEAM BRIDGE										
1	14+85 LT. TO 17+30 LT.		0.03	0.02								
1	13+03 & 13+75 LT./RT.								0.02	35		
TOTALS:			0.10	0.08					0.02	35		

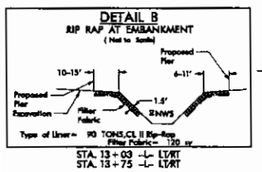
NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

FRANKLIN COUNTY
BRIDGE # 61 ON SR 1451

SHEET 2/10/2011

ATN Revised 3/31/05





8/17/99

PROJECT REFERENCE NO.	SHEET NO.
B-5218	4

R/W SHEET NO.

ROADWAY DESIGN ENGINEER

HYDRAULICS ENGINEER

INCOMPLETE PLANS
DO NOT USE FOR R/W ACQUISITION

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

WETHERILL ENGINEERING
559 Jones Franklin Rd. Suite 164
Raleigh, N.C. 27606
License No. F-0377
Bus: 919 851 8077
Fax: 919 851 8107

TRANSPORTATION PLANNING/DESIGN - BRIDGE/STRUCTURE DESIGN
CIVIL/SITE DESIGN - GIS/GPS - CONSTRUCTION OBSERVATION

BUFFER IMPACTS

STRUCTURE HYDRAULIC DATA

DESIGN DISCHARGE	=	9300	CFS
DESIGN FREQUENCY	=	25	YRS
DESIGN HW ELEVATION	=	203.4	FT
BASE DISCHARGE	=	13200	CFS
BASE FREQUENCY	=	100	YRS
BASE HW ELEVATION	=	205.4	FT
OVERTOPPING DISCHARGE	=	19000	CFS
OVERTOPPING FREQUENCY	=	+/-500	YRS
OVERTOPPING ELEVATION	=	207.7	FT

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
RALEIGH
TIP. NO. B-5218
FRANKLIN COUNTY
STATION: 13+65.04 -L-
REPLACES BRIDGE: NO. 61

REVISIONS

SHEET NO.

TOTAL SHEETS

BUFFER IMPACTS SUMMARY

			IMPACT									BUFFER REPLACEMENT	
			TYPE			ALLOWABLE			MITIGABLE				
SITE NO.	STRUCTURE SIZE / TYPE	STATION (FROM/TO)	ROAD CROSSING	BRIDGE	PARALLEL IMPACT	ZONE 1 (ft^2)	ZONE 2 (ft^2)	TOTAL (ft^2)	ZONE 1 (ft^2)	ZONE 2 (ft^2)	TOTAL (ft^2)	ZONE 1 (ft^2)	ZONE 2 (ft^2)
1	1 @ 50', 1 @ 95'	12+50 LT/RT TO		X		225	530						
	1 @ 50', 1 @ 65'	13+10 LT/RT											
	39" BOX BEAM BRIDGE												
		13+60 LT/RT TO		X		1270	850						
		14+30 LT/RT											
TOTAL:						1495	1380						

N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS

FRANKLIN COUNTY
BRIDGE NO. 61 ON SR 1451

2/10/2011
SHEET OF

Rev. May 2006

Utility Permit Drawings

UTILITY
WETLANDS / STREAM IMPACTS

NAD 83

PROJECT REFERENCE NO.	SHEET NO.
B-5218	4
R/W SHEET NO.	
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER

INCOMPLETE PLANS
DO NOT USE FOR R/W ACQUISITION

PRELIMINARY PLANS
DO NOT USE FOR CONSTRUCTION

WETHERILL ENGINEERING
559 Jones Franklin Rd. Suite 164
Raleigh, N.C. 27606
License No. F-0377
Phone 919 851 8077
Fax 919 851 8107
TRANSPORTATION PLANNING/DESIGN - BRIDGE/STRUCTURE DESIGN
CIVIL/SITE DESIGN - GIS/GPS - CONSTRUCTION OBSERVATION

SHOULDER BERM GUTTER SUMMARY

SURVEY LINE	STATION	END OF STATION	LENGTH
-L- LT	12+69	13+34	13
-L- RT	12+34	12+69	13
		TOTAL=	26
		SAY=	25

DETAIL A
TOE PROTECTION
(Not to Scale)

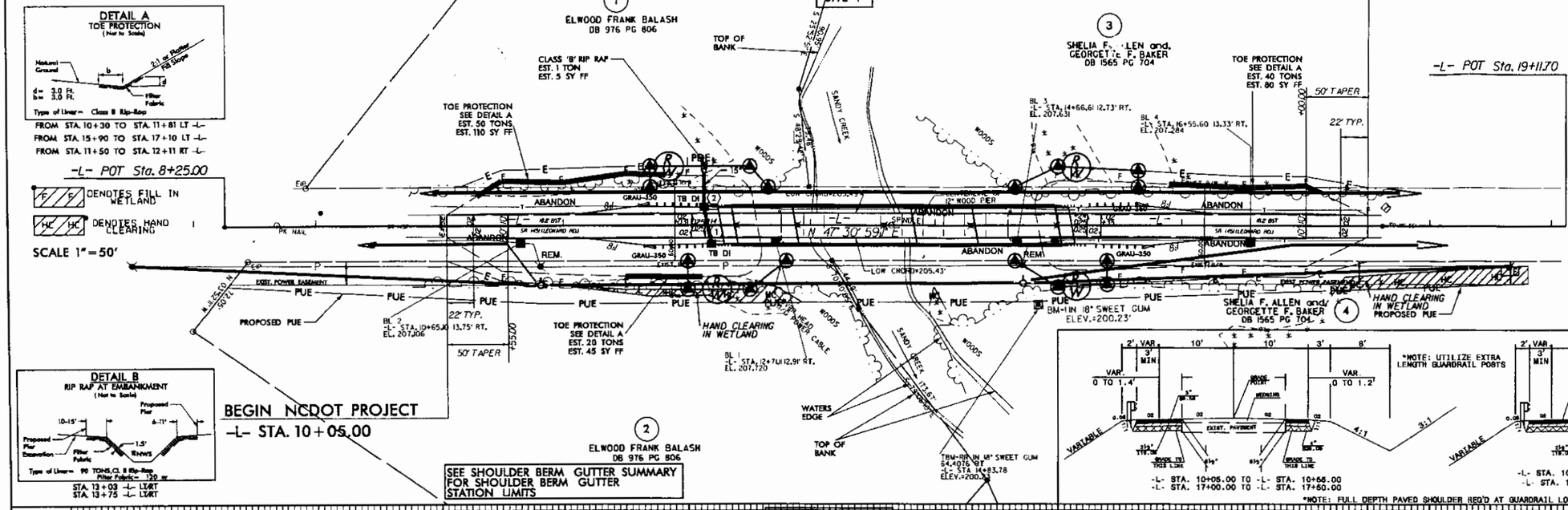
d= 3.0 Ft.
b= 3.0 Ft.
Type of Liner= Class B Rip-Rap

FROM STA. 10+30 TO STA. 11+81 LT -L-
FROM STA. 15+90 TO STA. 17+10 LT -L-
FROM STA. 11+50 TO STA. 12+11 RT -L-

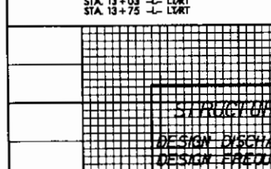
-L- POT Sta. 8+25.00

F/F DENOTES FILL IN WETLAND
HC/HC DENOTES HAND CLEARING

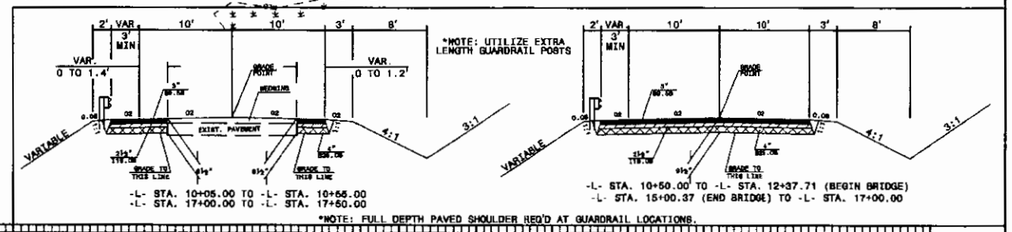
SCALE 1"=50'

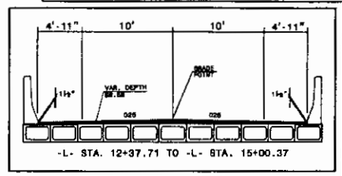


DETAIL B
RIP RAP AT EMBANKMENT
(Not to Scale)



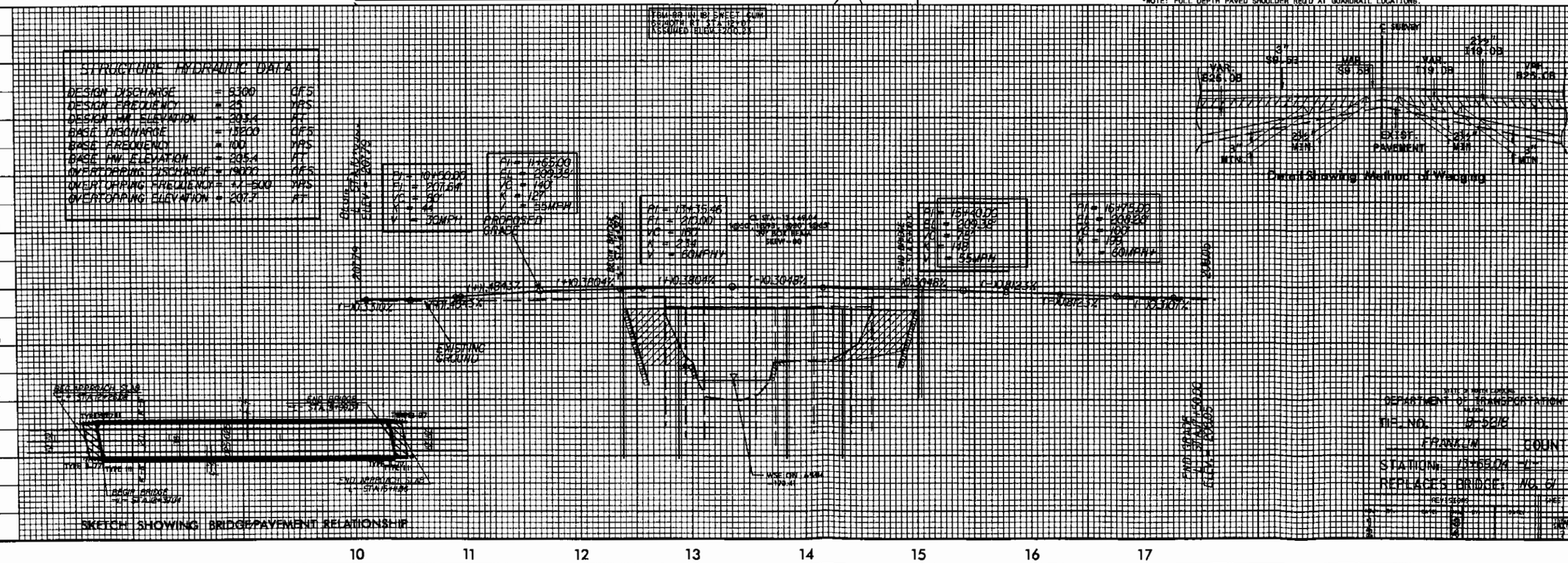
Type of Liner= 90 TONS, CL B Rip-Rap
Filter Fabric= 120 sy
STA. 13+03 -L- LT,RT
STA. 13+75 -L- LT,RT





STRUCTURE HYDRAULIC DATA

DESIGN DISCHARGE	= 9300	CFS
DESIGN FREQUENCY	= 25	YRS
DESIGN HW ELEVATION	= 209.4	FT
BASE DISCHARGE	= 13200	CFS
BASE FREQUENCY	= 100	YRS
BASE HW ELEVATION	= 209.4	FT
OVERTOPPING DISCHARGE	= 19000	CFS
OVERTOPPING FREQUENCY	= +/-500	YRS
OVERTOPPING ELEVATION	= 207.7	FT



WETLAND PERMIT IMPACT SUMMARY

			WETLAND IMPACTS					SURFACE WATER IMPACTS				
Site No.	Station (From/To)	Structure Size / Type	Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)
1	11+06 RT. TO 12+92 RT.						0.03					
		1 @ 50', 1 @ 95',										
1	13+95 RT. TO 14+05 RT.	1@ 50', 1 @ 65'					< 0.01					
		39" BOX BEAM BRIDGE										
1	17+24 RT. TO 18+67 RT.		< 0.01				0.04					
TOTALS:			< 0.01				0.07					

NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

FRANKLIN COUNTY
BRIDGE # 61 ON SR 1451

SHEET 2/10/2011

ATN Revised 3/31/05

UTILITY BUFFER IMPACTS

PROJECT REFERENCE NO.	SHEET NO.
B-5218	4

R/W SHEET NO.

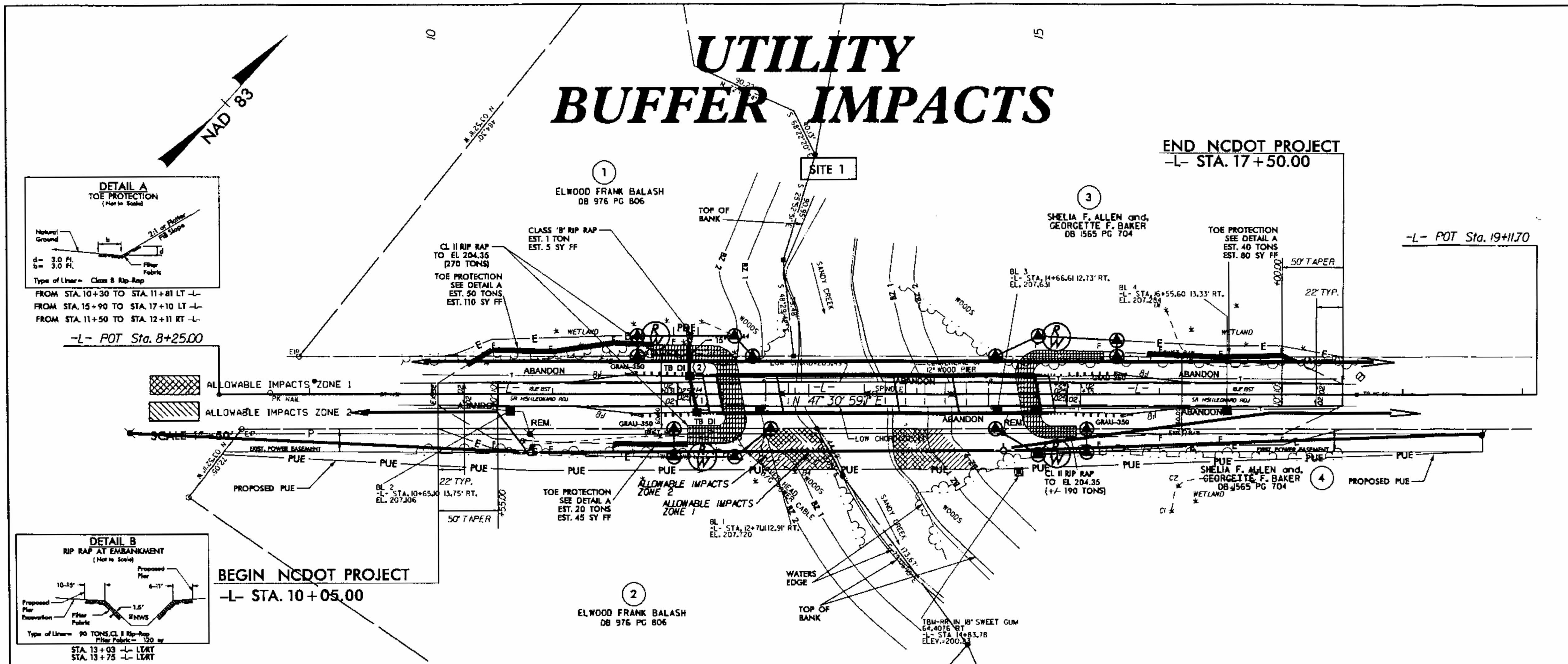
ROADWAY DESIGN ENGINEER — HYDRAULICS ENGINEER

INCOMPLETE PLANS — DO NOT USE FOR R/W ACQUISITION

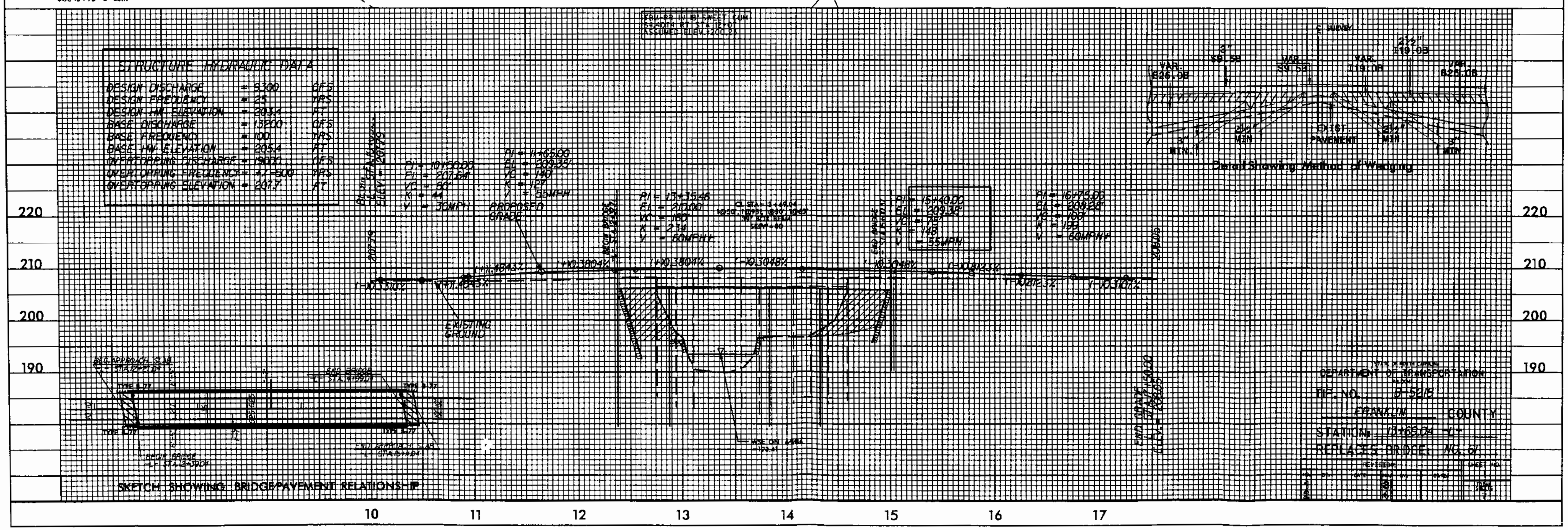
PRELIMINARY PLANS — DO NOT USE FOR CONSTRUCTION

WETHERILL ENGINEERING

TRANSPORTATION PLANNING/DESIGN - BRIDGE/STRUCTURE DESIGN
CIVIL/SITE DESIGN - GIS/GPS - CONSTRUCTION OBSERVATION



STRUCTURE HYDRAULIC DATA		
DESIGN DISCHARGE	= 9300	CFS
DESIGN FREQUENCY	= 25	YRS
DESIGN HW ELEVATION	= 203.4	FT
BASE DISCHARGE	= 13200	CFS
BASE FREQUENCY	= 100	YRS
BASE HW ELEVATION	= 205.4	FT
OVERTOPPING DISCHARGE	= 19000	CFS
OVERTOPPING FREQUENCY	= +/-500	YRS
OVERTOPPING ELEVATION	= 207.7	FT



BUFFER IMPACTS SUMMARY

			IMPACT									BUFFER REPLACEMENT	
			TYPE			ALLOWABLE			MITIGABLE				
SITE NO.	STRUCTURE SIZE / TYPE	STATION (FROM/TO)	ROAD CROSSING	BRIDGE	PARALLEL IMPACT	ZONE 1 (ft^2)	ZONE 2 (ft^2)	TOTAL (ft^2)	ZONE 1 (ft^2)	ZONE 2 (ft^2)	TOTAL (ft^2)	ZONE 1 (ft^2)	ZONE 2 (ft^2)
1	1 @ 50', 1 @ 95'	12+60 RT. TO		X		1315	650						
	1 @ 50', 1 @ 65'	13+40 RT.											
	39" BOX BEAM BRIDGE												
1		13+80 RT. TO		X		1130	790						
		14+50 RT.											
TOTAL:						2445	1440						

N.C. DEPT. OF TRANSPORTATION
DIVISION 5 HIGHWAYS

FRANKLIN COUNTY
BRIDGE NO. 61 ON SR 1451

2/10/2011
SHEET OF

Rev. May 2006

Biological Assessment

North Carolina Department of Transportation
Transportation Improvement Program No. B-5218
Bridge 61 (SR 1451) over Sandy Creek
Franklin County, North Carolina

Contact Person:
Heather Renninger
Environmental Specialist
NC Department of Transportation
Biological Surveys Group
(919) 431-6743

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

Introduction

The purpose of this biological assessment is to review the proposed project, Transportation Improvement Program (TIP) Project # B-5218, in sufficient detail to determine whether the proposed action may affect any of the threatened, endangered or proposed species listed below. This biological assessment is prepared in accordance with legal requirements set forth under Section 7 of the Endangered Species Act (16 U.S.C. 1536 (c)).

Threatened, Endangered, Proposed Threatened or Proposed Endangered Species

Common Name	**Scientific Name**	**Federal Status**
Tar River spinymussel	(*Elliptio steinstansana)*	Endangered
Dwarf wedgemussel	(*Alasmidonta heterodon*)	Endangered
Michaux's sumac	(*Rhus michauxii*)	Endangered

Project Description for B-5218

Removal of Existing Bridge

Removal of the existing structure will require the construction of a temporary causeway in the stream. The temporary causeway will be 30 feet wide and will be located in the footprint of the drip line of the proposed bridge. The temporary causeway will extend from both banks of Sandy Creek to the three existing interior bents. Temporary impacts to surface waters due to construction of the temporary causeway are anticipated to be about 1,050 square feet. The removal of existing bents within the stream channel has potential for negative effects to the aquatic habitat within the stream. In an effort to address this, NCDOT proposes the following commitments to minimize the potential for negative effects.

1. The contractor will remove portions of the existing bridge deck and bridge structure as necessary without dropping components into the stream. Natural ground and existing embankment will be graded down to a suitable elevation as noted on the plans (or determined by the Engineer) and a temporary rock causeway (underlain with filter fabric) will be constructed within the footprint of the bridge deck.
2. Install temporary turbidity curtains around the interior piles.
3. The temporary rock causeway (underlain with filter fabric where practical) will extend into the stream to the concrete piles and spreader footers. The rock causeway will need to surround all sides of the concrete spreader footer.
4. Only one in-stream causeway will be constructed at a time.
5. The contractor may remove the concrete piles and spreader footer by one of the following methods and following NCDOT best management practices:

- Attempt to rock or shake the concrete piles and spreader footer for removal. This will likely cause some amount of shattering. This material will then be broken into smaller pieces by a hoe ram or excavator bucket and removed as practical.
- Cut the concrete piles and spreader footers for removal. The remaining portions will then be broken into smaller pieces by a hoe ram or excavator bucket and removed as practical.
- In either method, the contractor must attempt to remove all of the concrete spreader footer. If the Engineer determines that this is not practical, it will be removed to depth of one foot below the natural streambed.

6. Rip rap and all other material used as part of temporary causeway will completely be removed by the contractor except as noted on the plans. Rip rap (underlain with filer fabric) will remain on both streambanks extending from below the ordinary high water mark up to the new piles to provide long-term stability.

New Bridge Construction

The North Carolina Department of Transportation (NCDOT) proposes replacement of Bridge 61 on SR 1451 in Franklin County, NC. The bridge will be replaced in place with an offsite detour. The new bridge will provide a less obstructed hydraulic cross section by reducing the number of bridge bents from 8 to three and by eliminating bents in the waterway.

The new bridge will be 260 feet long and will have four spans measuring approximately 50 feet, 95 feet, 50 feet and 65 feet in length. The bridge structure was designed to eliminate placement of structure foundations (bents) within the river channel to prevent disturbance to aquatic habitat. New bents will be constructed on the upland floodplain within 10 feet of the top of bank. However, Class II rip rap will be installed on the adjacent banks to prevent scour and to provide permanent stabilization.

The implementation of NCDOT's "Best Management Practices for Protection of Surface Waters" will minimize unavoidable effects to the water quality of Sandy Creek. Several of the practices that will be employed include: the minimization of staging areas in lowland sites; careful containment of oil, gasoline and other hazardous materials near streams and tributaries; reducing vegetation removal near streams; revegetating with local flora; and the implementation of strict erosion and sedimentation control procedures.

During project construction, embankment construction and grading shall be managed in such a manner to prevent surface runoff/drainage from discharging directly into the riparian buffer. Instead, all interim surfaces will be graded to drain to temporary erosion control devices. Silt fencing, special sediment control fencing, and a floating turbidity curtain will be used to control suspended sediment generated during construction. All sedimentation and erosion control measures, throughout the project limits, will be monitored and maintained to ensure proper function of the measures. Special sediment control fence will be installed along the top of the steam bank. Once the disturbed areas of the project draining to the special sediment control fence have been

stabilized, the special sediment control fence and all built up sediment adjacent to the fence will be removed to natural ground and stabilized with a native grass mix. Stormwater runoff from the completed bridge and adjacent roadway surface will be directed to an adjacent floodplain wetland. Additionally, "Design Standards in Sensitive Watersheds" (description below) will be utilized on this project to further reduce effects to aquatic habitat.

Avoidance and Minimization

The NCDOT is committed to planning, designing, constructing, maintaining and managing an interconnected transportation system while striving to preserve and enhance our natural and cultural resources. Pursuant to this stated goal, the following avoidance and minimization measures will be implemented to ensure that negative effects to the habitat of endangered species within the project action area are minimal and short in duration.

Standard Measures

The following "Design Standards in Sensitive Watersheds" [15A NCAC 04B.0124 (b) – (e)] are incorporated into NCDOT projects that occur within or upstream of water bodies that contain federally protected aquatic species. Within the Environmentally Sensitive Areas, the following shall apply:

- The Contractor may perform clearing operations, but not grubbing operations until immediately prior to beginning grading operations.
- Once grading operations begin, work shall progress in a continuous manner until complete.
- Erosion control devices shall be installed immediately following the clearing operation.
- Seeding and mulching shall be performed on the areas disturbed by construction immediately following final grade establishment.
- Seeding and mulching shall be done in stages on cut and fill slopes that are greater than 20 feet in height measured along the slope, or greater than 2 acres in area, whichever is less.

Additional Measures

The following are additional measures intended to further reduce deleterious construction related effects to the waterway:

- An offsite detour will be utilized for this project.
- Best Management Practices for Bridge Demolition and Removal will be implemented during the removal of the existing bridge.
- No new bents will be constructed in the stream. New bents will be constructed in the upland floodplain within 10 feet of the top of bank. However, the Class II rip

rap will be installed on the streambank to prevent scour and permanently stabilize the streambank.

- Rip rap will be installed as toe protection in areas where the fill slope extends into wetland areas. This rip rap must be installed immediately after establishment of fill slope.
- Special sediment control fence will be installed along the top of the steam bank. Standard silt fence will be installed along the toe of slope parallel to the stream. Once the disturbed areas of the project draining towards the stream have been stabilized, the special sediment control fence and all built up sediment adjacent to the fence will be removed to natural ground and stabilized with a native grass mix.
- All sedimentation and erosion control measures, throughout the project limits, will be properly maintained, to ensure proper function of the measures.
- Embankment construction and grading shall be managed in such a manner to prevent surface runoff/drainage from discharging, untreated, into the riparian buffer. Instead, all interim surfaces will be graded to drain to temporary erosion control devices to treat runoff before discharging into Sandy Creek (as specified in NCDOT BMP Manual).
- The resident engineer's office will invite the United States Fish and Wildlife Service (USFWS) and North Carolina Wildlife Resources Commission (NCWRC) to the pre-construction meeting.

No stormwater BMP device is being designed for this project. This is because the discharge point is in a wetland. Pre-formed scour holes are not constructed in wetlands due to the increased impact. Also, it would be underwater for at least a third of the year. Furthermore, the USACE and NCDENR-DWQ both approve of discharging stormwater runoff into wetlands.

Defined Action Area

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

February 2, 2011

Heather Renninger
North Carolina Department of Transportation
Project Development and Environmental Analysis
1598 Mail Service Center
Raleigh, North Carolina 27699-1598

Dear Ms. Renninger:

This letter is in response to your letter of January 25, 2011 which provided the U.S. Fish and Wildlife Service (Service) with the biological conclusion of the North Carolina Department of Transportation (NCDOT) that the replacement of Bridge No. 61 on SR 1451 over Sandy Creek in Franklin County (TIP No. B-5218) may affect, but is not likely to adversely affect the federally endangered dwarf wedgemussel (*Alasmidonta heterodon*) and Tar River spinymussel (*Elliptio steinstansana*). In addition, NCDOT has determined that the project will have no effect on the federally endangered Michaux's sumac (*Rhus michauxii*). These comments are provided in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531-1543).

Although the Tar River spinymussel was observed approximately two miles downstream of the project area in 1988, mussel surveys conducted in 2003 and 2010 did not reveal either Tar River spinymussel or dwarf wedgemussel. These surveys involved intensive search efforts 100 meters upstream and 400 meters downstream of the SR 1451 crossing, as well as a search within suitable habitat for a distance of two miles downstream from the crossing.

NCDOT has committed to several conservation measures in order to avoid and minimize impacts to aquatic life, to include fully spanning the channel and stringent erosion control measures. Based on the mussel survey results and the commitment to the conservation measures listed in your letter, the Service concurs with your conclusion that the project may affect, but is not likely to adversely affect the dwarf wedgemussel and Tar River spinymussel.

NCDOT surveyed the project area for Michaux's sumac on July 14, 2010. The species was not observed. Based on the survey results, the Service concurs with your conclusion that the project will have no effect on Michaux's sumac. We believe that the requirements of Section 7(a)(2) of the ESA have been satisfied. We remind you that obligations under Section 7 consultation must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered in this review; (2) this action is subsequently modified in a manner that was not considered in this review; or (3) a new species is listed or critical habitat determined that may be affected by this identified action.

The Service appreciates the opportunity to review this project. If you have any questions regarding our response, please contact Mr. Gary Jordan at (919) 856-4520 (Ext. 32).

Sincerely,

Gary Jordan

for Pete Benjamin
Field Supervisor

cc: Eric Alsmeyer, USACE, Wake Forest, NC
Travis Wilson, NCWRC, Creedmoor, NC
Chris Militscher, USEPA, Raleigh, NC
John Sullivan, FHWA, Raleigh, NC
David Harris, NCDOT, Raleigh, NC

North Carolina Department of Environment and Natural Resources
Division of Water Quality
Coleen H. Sullins
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

February 23, 2011
Franklin County
NCDWQ Project No. 20110172
Bridge 61 on SR 1451
TIP No. B-5218

APPROVAL of 401 WATER QUALITY CERTIFICATION and TAR-PAMLICO BUFFER AUTHORIZATION, with ADDITIONAL CONDITIONS

Mr. J. W. Bowman, P.E., Division Engineer
NCDOT, Division 5
2612 North Duke Street
Durham, NC 27704

Dear Mr. Bowman:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of replacing Bridge 61 in Franklin County:

Stream Impacts in the Tar-Pamlico River Basin

Site	Riprap Streambank Stabilization to Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)
1	35	35 (Concurrent)	35
Total	**35**	**35 (Concurrent)**	**35**

Total Stream Impact for Project: 35 linear feet.

Wetland Impacts in the Tar-Pamlico River Basin

Site	Permanent Fill (ac)	Temporary Fill (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)
1	0.10	0.08	0.07	0.25
Total	**0.10**	**0.08**	**0.07**	**0.25**

Total Wetland Impact for Project: 0.25 acres.

Tar-Pamlico Riparian Buffer Impacts

Site	Zone 1 Impact (sq ft)	*minus* Wetlands in Zone 1 (sq ft)	= Zone 1 Buffers (not wetlands) (sq ft)	Zone 1 Buffer Mitigation Required (using 3:1 ratio)	Zone 2 Impact (sq ft)	*minus* Wetlands in Zone 2 (sq ft)	= Zone 2 Buffers (not wetlands) (sq ft)	Zone 2 Buffer Mitigation Required (using 1.5:1 ratio)
Bridge	1495	0	1495	N/A	1380	0	1380	N/A
Utility	2445	0	2445	N/A	1440	0	1440	N/A
Totals	**3940**	**0**	**3940**	**0**	**2820**	**0**	**2820**	**0**

* n/a = Total for Site is less than 1/3 acre and 150 linear feet of impact, no mitigation required

Total Buffer Impact for Project: 6,760 square feet.

Transportation Permitting Unit
Wetlands & Stormwater Branch
1650 Mail Service Center, Raleigh, North Carolina 27699-1650
Phone: 919-807-6399 \ FAX: 919-807-6494
Internet: http://h2o.enr.state.nc.us/ncwetlands/

The project shall be constructed in accordance with your application dated received February 18, 2011. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Numbers 3687 and 3689. This certification corresponds to the Nationwide Permits 3 and 13 issued by the Corps of Engineers. This approval is also valid for the Tar-Pamlico Riparian Buffer Rules (15A NCAC 2B.0259). 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 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 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). Additional buffer impacts may require compensatory mitigation as described in 15A NCAC 2H.0260(9). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

Conditions of Certification:

1. The permittee shall use /Design Standards in Sensitive Watersheds/[15A NCAC 4B.0124(a)-(e)] in areas draining to ORW waters, as well as their upstream waters designated as "+". However, due to the size of the project, NC DOT shall not be required to meet 15A NCAC 4B .0124(a) regarding the maximum amount of uncovered acres. Temporary cover (wheat, millet, or similar annual grain) or permanent herbaceous cover shall be planted on all bare soil within 15 business days of ground disturbing activities to provide erosion control.

2. Tall fescue shall not be used in the establishment of temporary or permanent groundcover within riparian areas. For the establishment of permanent herbaceous cover, erosion control matting shall be used in conjunction with appropriate seeding on disturbed soils within the riparian area and on disturbed steep slopes with the following exception: Erosion control matting is not necessary if the area is contained by perimeter erosion control devices such as silt fence, temporary sediment ditches, basins, etc. Matting should be secured in place with staples, stakes, or wherever possible, live stakes of native trees. Erosion control matting placed in riparian areas shall not contain a nylon mesh grid, which can impinge and entrap small animals. For the establishment of temporary groundcover within riparian areas, hydroseeding along with wood or cellulose based hydro mulch applied from a fertilizer-free and limestone-free tank is allowable at the appropriate rate in conjunction with the erosion control measures. Discharging hydroseed mixtures and wood or cellulose mulch into surface waters in prohibited. Riparian areas are defined as a distance 25 feet landward from top of stream bank.

3. For projects impacting waters classified by the NC Environmental Management Commission as Outstanding Resource Waters (ORW), as well as their upstream waters designated as "+", stormwater shall be directed to vegetated buffer areas, grass-lined ditches or other means appropriate to the site for the purpose of pre-treating storm water runoff prior to discharging directly into streams. Mowing of existing vegetated buffers is strongly discouraged.

4. The post-construction removal of any temporary bridge structures must return the project site to its preconstruction contours and elevations. The impacted areas shall be revegetated with appropriate native species.

5. Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.

6. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices.*

7. 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.

8. All clearing of vegetation for purpose of relocating overhead power lines within jurisdictional wetlands shall be performed without the use of mechanized equipment.

9. All riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the preconstruction contours and revegetated. Maintained buffers shall be permanently revegetated with non-woody species by the end of the growing season following completion of construction. For the purpose of this condition, maintained buffer areas are defined as areas within the transportation corridor that will be subject to regular NCDOT maintenance activities including mowing. The area with non-maintained buffers shall be permanently revegetated with native woody species before the next growing season following completion of construction.

10. Pursuant to NCAC15A 2B.0259(6) sediment and erosion control devices shall not be placed in Zone 1 of any Tar-Pamlico Buffer without prior approval by NCDWQ. At this time, NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.

11. All stormwater runoff shall be directed as sheetflow through stream buffers at nonerosive velocities, unless otherwise approved by this certification.

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.

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.

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.

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.

16. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.

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.

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.

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.

20. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.

21. 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 NCDWQ 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, NCDWQ may reevaluate and modify this certification.

22. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification..

23. 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.

24. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization 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.

25. 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.

26. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.

27. 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 NCDWQ when all work included in the 401 Certification has been completed.

28. Native riparian vegetation (i.e., trees and shrubs native to your geographic region) must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.

29. 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.

30. 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:

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.

31. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.

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 letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact Rob Ridings at 919-807-6403

Sincerely,

Robert Ridings

for Coleen H. Sullins
Director

Cc: Chris Murray, Division 5 Environmental Officer
Eric Alsmeyer, US Army Corps of Engineers, Raleigh Field Office
Travis Wilson, NC Wildlife Resources Commission
File Copy

Water Quality Certification N°. 3687

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBERS: 3 (MAINTENANCE), 4 (FISH AND WILDLIFE HARVESTING, ENHANCEMENT, AND ATTRACTION DEVICES AND ACTIVITIES), 5 (SCIENTIFIC MEASUREMENT DEVICES—25 CUBIC YARDS FOR WEIRS AND FLUMES), 6 (SURVEY ACTIVITIES—25 CUBIC YARDS FOR TEMPORARY PADS), 7 (OUTFALL STRUCTURES AND ASSOCIATED INTAKE STRUCTURES), 19 (MINOR DREDGING), 20 (OIL SPILL CLEANUP), 22 (REMOVAL OF VESSELS), 25 (STRUCTURAL DISCHARGE), 30(MOIST SOIL MANAGEMENT FOR WILDLIFE), 32 (COMPLETED ENFORCEMENT ACTIONS), 36 (BOAT RAMPS [IN NONWETLAND SITES]), AND REGIONAL PERMIT 197800056 (PIERS, DOCKS AND BOATHOUSES), AND REGIONAL PERMIT 197800125 (BOAT RAMPS) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)

Water Quality Certification Number 3687 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 and 15 NCAC 2B .0200 for the discharge of fill material to waters and wetland areas which are waters of the United States as described in 33 CFR 330 Appendix A (B) (3, 4, 5, 6, 7, 19, 20, 22, 25, 30, 32, and 36) of the Corps of Engineers regulations and Regional Permits 197800056 and 19780125 and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200.

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.

Activities meeting any one (1) of the following thresholds or circumstances require *written approval* for a 401 Water Quality Certification from the Division of Water Quality (the "Division"):

a. Impacts equal or greater than 40 linear feet of additional permanent stream impact at an existing stream crossing location, or
b. Temporary or permanent impacts equal to or exceeding: one-third (1/3) acre of wetlands East of Interstate-95, or one-tenth (1/10) of acre of wetlands West of Interstate-95; or
c. Any impact associated with a Notice of Violation or an enforcement action initiated by the Division and/or the Division of Land Resources; or
d. Projects with any impacts to streams, wetlands, and/or waters that have received a Notice of Violation from the Division and/or Division of Land Resources; or
e. Any impacts to streams and/or buffers in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) *unless* the activities are listed as "EXEMPT" from these Rules.

In accordance with North Carolina General Statute Section 143-215.3D(e), written approval for a 401 Water Quality General Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.

Activities included in this General Certification and below the thresholds listed above *do not* require written approval from the Division of Water Quality as long as they comply with the Conditions of Certification listed below. If any of these Conditions cannot be met, written approval from the Division is required.

Water Quality Certification N°. 3687

Conditions of Certification:

1. No Impacts Beyond Those Authorized for this General Certification

   No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the thresholds established for use of this General Certification, or beyond the footprint of the impacts authorized in the written approval, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

2. Standard Erosion and Sediment Control Practices

   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:

   a. 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.
   b. 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*.
   c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
   d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times. ,except for publicly funded linear transportation projects when materials can be accessed offsite in a timely manner.
   e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.

3. No Sediment and Erosion Control Measures in Wetlands or Waters

   Sediment and erosion control measures should not be placed in wetlands or waters outside of the permitted impact areas without prior approval from the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then the design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

4. Construction Stormwater Permit NCG010000

   Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If the

activity is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at http://h2o.enr.state.nc.us/su/Forms_Documents.htm.

NCDOT shall be required to be in full compliance with the conditions related to construction activities within the most recent version of their individual NPDES (NCS000250) stormwater permit.

5. Work in the Dry

All work in or adjacent to stream waters shall be conducted in a dry work area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. Exceptions to this condition require submittal to, and approval by, the Division.

6. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to protect trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be obeyed. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS personnel.

7. Riparian Area Protection Rules (Buffer Rules)

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman, Catawba (or any other basin with buffer rules), shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250, and .0243, and 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. All riparian area protection rule requirements, including diffuse flow requirements, must be met.

8. Water Supply Watershed Buffers

The 100-foot wide (high-density development) or the 30-foot wide vegetative buffer (all other development) must be maintained adjacent to all perennial waters except for allowances as provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

9. Placement of Culverts and Other Structures in Waters and Wetlands

   The application must include construction plans with cross-sectional details in order to indicate that the current stability of the stream will be maintained or enhanced (i.e., not result in head cuts).

   Culverts required for this project shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal profile) must be maintained above and below locations of each culvert. Placement of culverts and other structures in waters, streams, and wetlands must 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, unless otherwise justified and approved by the Division.

   Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. 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 destabilization of streams or wetlands.

   Any rip rap required for normal pipe burial and stabilization shall be buried such that the original stream elevation is restored and maintained.

   The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of rip-rap or other bank hardening methods.

10. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.

11. Applications for riprap groins proposed in accordance with 15A NCAC 07H .1401 (NC Division of Coastal Management General Permit for construction of Wooden and Riprap Groins in Estuarine and Public Trust Waters) must meet all the specific conditions for design and construction specified in 15A NCAC 07H .1405.

12. Temporary Fills and/or Access Roads

    All temporary fill and culverts shall be removed and the impacted area returned to the original grade, including each stream's original cross sectional dimensions, plan form pattern, and longitudinal bed and bed profile after construction is complete or within two (2) months of the establishment of the crossing, which ever is sooner, and the various sites shall be stabilized with natural woody vegetation (except for the maintenance areas of permanent utility crossings) and restored to prevent erosion. If the crossings are not completely removed and restored as described above within the specified time above, then written approval from the Division must be obtained to modify this condition.

13. For activities requiring written approval, additional site-specific conditions may be added to the approval letter in order to ensure compliance with all applicable water quality and effluent standards.

14. Certificate of Completion

When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.

15. If an environmental document is required under NEPA or SEPA, then this General Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.

16. This General Certification shall expire three (3) years from the date of issuance of the written approval or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits. In accordance with General Statute 136-44.7B, certifications issued to the NCDOT shall expire only upon expiration of the federal 404 Permit. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification. If the construction process for approved activities will overlap the expiration and renewal date of the corresponding 404 Permit and the Corps allows for continued use of the 404 Permit, then the General Certification shall also remain in effect without requiring re-application and re-approval to use this Certification for the specific impacts already approved.

17. The applicant/permittee and their authorized agents shall conduct all 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 Division determines that such standards or laws are not being met, including 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, then the Division may reevaluate and modify this General Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this General 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 if it is determined that the project is likely to have a significant adverse effect upon water quality, including state or federally listed endangered or threatened aquatic species, or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

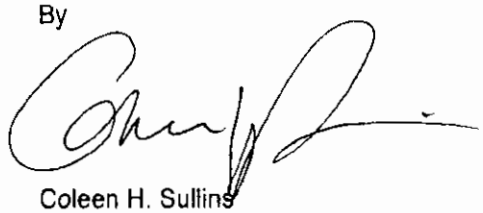
Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Water Quality Certification N°. 3687

Effective date: November 1, 2007

DIVISION OF WATER QUALITY

By



Coleen H. Sullins

Director

History Note: Water Quality Certification Number 3687 replaces Water Quality Certification Number 3376 issued on March 18, 2002, Water Quality Certification Number 3494 issued December 31, 2004, and Water Quality Certification Number 3624 issued March 2007. This General Certification is rescinded when the Corps of Engineers re-authorizes any of these Nationwide or Regional Permits or when deemed appropriate by the Director of the Division of Water Quality.

Water Quality Certification N°. 3689

GENERAL CERTIFICATION FOR STREAM RESTORATION, ENHANCEMENT AND STABILIZATION PROJECTS AND WETLAND AND RIPARIAN RESTORATION AND CREATION ACTIVITIES INCLUDING THOSE ELIGIBLE FOR U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBERS 13 (BANK STABILIZATION) AND 27 (WETLAND AND RIPARIAN RESTORATION AND CREATION), AND REGIONAL PERMIT 197800080 (BULKHEADS AND RIPRAP) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)

Water Quality Certification Number 3689 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 .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters as described in 33 CFR 330 Appendix A (B) (13) and (27) of the Corps of Engineers regulations (i.e., Nationwide Permit Numbers 13 and 27) and Regional Permit 197800080. The category of activities shall include stream bank stabilization or stream restoration activity as long as impacts to waters or significant wetlands are minimized; wetland and riparian restoration or creation; and the construction and maintenance of bulkheads on non-Federal Energy Regulatory Commission (FERC) lakes.

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 set forth.

All proposed fill or modification of wetlands and/or waters, including streams and streambanks, under this General Certification requires application to, and written approval from the Division of Water Quality (the "Division"), regardless of the purpose of the restoration, enhancement, stabilization, or creation activity.

Bank Stabilization projects qualifying for Nationwide Permit 13 for erosion protection of up to 500 feet of stream banks to protect property are exempt from the requirement for written approval.

Any impacts to riparian buffers associated with this work in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application [in accordance with 15A NCAC 2B .0200]) will require written approval, *unless* the activities are listed as "EXEMPT" from these Rules.

In accordance with North Carolina General Statute Section 143-215.3D(e), written approval for a 401 Water Quality General Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.

Conditions of Certification:

1. Activities shall meet the definitions, design, and monitoring protocols specified within the US Army Corps of Engineers Wilmington District *Regulatory Guidance Letter* (RGL02-02) and the *Stream Mitigation Guidelines* (April 2003) or any subsequent updates to these documents.

2. No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-construction Notification and/or those authorized by this Certification, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control

Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

3. Standard Erosion and Sediment Control Practices

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:

a. 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.
b. 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*.
c. Reclamation measures and implementation must comply with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times, except for publicly funded linear transportation projects when materials can be accessed offsite in a timely manner..
e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNA's), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.

4. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters outside of the permitted impact areas without prior approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

5. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at http://h2o.enr.state.nc.us/su/Forms_Documents.htm.

The North Carolina Department of Transportation (NCDOT) shall be required to be in full compliance with the conditions related to construction activities within the most recent version of their individual NPDES (NCS000250) stormwater permit.

6. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to lessen impacts on trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented. This condition can be waived through written concurrence on a case by case basis upon reasonable justification.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

NC Wildlife Resources Commission will not object to construction of Natural Resources Conservation Service (NRCS) 'urgent and compelling' sites during the spawning period provided these projects are, to the extent appropriate and practical, constructed by:

a. Using flow diversion structures such as sandbags;
b. Placing large-size rock toes and filter cloth backing for stabilization sites before backfilling; and
c. Excavating new channel alignments in dry areas.

Construction at non-'urgent and compelling' sites shall not occur during the spawning period to minimize the potential adverse effects of multiple construction activities on trout or anadromous fish resources in this stream.

7. Work in the Dry

All work in or adjacent to stream waters shall be conducted in a dry work area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. Exceptions to this condition require submittal to, and approval by, the Division.

8. Riparian Area Protection (Buffer) Rules

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman, Catawba (or any other basin with buffer rules), shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250 and .0243, and 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. All buffer rule requirements, including diffuse flow requirements, must be met.

9. Water Supply Watershed Buffers

The 100-foot wide (high-density development) or the 30-foot wide vegetative buffer (all other development) must be maintained adjacent to all perennial waters except for allowances as

provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

10. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.

11. Any rip-rap shall be of such a size and density so as not to be able to be carried off by wave or current action and consist of clean rock or masonry material free of debris or toxic pollutants. Rip-rap shall not be installed in the streambed except in specific areas required for velocity control and to ensure structural integrity of bank stabilization measures. If rip-rap is to be installed within the streambed, the amount and location must be approved in writing by the Division of Land Resources and Division of Water Quality. However, rock vanes, wing deflectors, and similar structures for grade control and bank protection are acceptable.

12. If an environmental document is required under NEPA or SEPA, then this General Certification is not valid until a Finding of No Significant Impact or Record of Decision is issued by the State Clearinghouse.

13. Additional site-specific conditions may be added to the written approval attached to this Certification in order to ensure compliance with all applicable water quality and effluent standards.

14. This Certification shall expire three (3) years from the date of the approval letter from DWQ or on the same day as the corresponding Nationwide Permit. In accordance with General Statute 136-44.7B, certifications issued to the NCDOT shall expire only upon expiration of the federal 404 Permit. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification. If the construction process for approved activities will overlap the expiration and renewal date of the corresponding 404 Permit and the Corps allows for continued use of the 404 Permit, then the General Certification shall also remain in effect without requiring re-application and re-approval to use this Certification for the specific impacts already approved.

15. The applicant/permittee and their authorized agents shall conduct all 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 Division determines that such standards or laws are not being met, including 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, then the Division may reevaluate and modify this General Water Quality Certification.

16. Certificate of Completion

    When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.

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

Water Quality Certification N°. 3689

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 if it is determined that the project is likely to have a significant adverse effect upon water quality including state or federally listed endangered or threatened aquatic species or degrade the waters so that existing uses of the wetland 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: November 1, 2007

DIVISION OF WATER QUALITY

By

Coleen H. Sullins

Director

History Note: Water Quality Certification Number 3689 replaces Water Quality Certification (WQC) Number 3399 issued March 2003, Water Quality Certification (WQC) Number 3495 issued December 31, 2004, and Water Quality Certification (WQC) Number 3626 issued March 2007. This WQC is rescinded when the Corps of Engineers reauthorizes Nationwide Permits 13 or 27 or Regional Permit 197800080 or when deemed appropriate by the Director of the Division of Water Quality.

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action ID(s): **2010-01416** County: **Franklin** USGS Quad: **Centerville**

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property Owner: **NCDOT; Division 5**
ATTN: J.W. Bowman, P.E.
Mailing Address: **2612 Duke Street**
Durham, North Carolina 27704
Telephone No.: **919.220.4633 (Chris Murray)**

Location of project (road name/number, town, etc.): **B-5218; On SR 1451 (Leonard Road), Bridge 61 southwest of Centerville, North Carolina.**

Site Coordinates: **36.1652° N -78.1236° W** Waterway: **Sandy Creek** River Basin: **Tar** HUC: **03020101**

Description of activity: **B-5218; Discharge of fill material for approach fills; temporary fill for erosion control devices and grubbing, a temporary construction access causeway, and riprap bank stabilization, related to replacement of Bridge No. 61 with a new bridge on the same alignment, in accordance with the drawings submitted on 2/14/2011, and subject to the special conditions below.**

Applicable Law: ☒ Section 404 (Clean Water Act, 33 USC 1344)
☐ Section 10 (Rivers and Harbors Act, 33 USC 403)
Authorization: Nationwide General Permit Number(s): **3 & 13**

Summary of Authorized Impacts and Required Mitigation

	Open Water (ac)		Wetland (ac)		Unimportant Stream (lf)		Important Stream (lf)	
	Temporary	Permanent	Temporary	Permanent	Temporary	Permanent	Temporary	Permanent
Impact Totals	**<0.05***	**<0.01***	**0.08**	**0.10**	**0**	**0**	**0**	**0**

Total Loss of Waters of the U.S. (ac)	**0.10**	Total Loss of Waters of the U.S. (lf)	**0**
Required Wetland Mitigation (ac)	**0**	Required Stream Mitigation (lf)	**0**

*surface water impact along 35 linear feet of stream bank.

Note: **No stream or wetland mitigation is required.**

Special Permit Conditions:

1) **If riprap stabilization is needed, it should be placed only on the stream banks, or, if it is necessary to be placed in the stream bed, the finished top elevation of the riprap should not exceed that of the original stream bed.**

2) **The permittee shall implement the Standard and Additional Measures for avoidance and minimization of negative effects to the endangered Tar River spinymussel and Dwarf wedgemussel, as stated in NCDOT's undated Biological Assessment for B-5218.**

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted plans. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact **Eric Alsmeyer** at telephone **(919) 554-4884, ext. 23**.

Digitally signed by ALSMEYER.ERIC.C.1087624486
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=ALSMEYER.ERIC.C.1087624486
Date: 2011.04.04 16:25:18 -04'00'

Corps Regulatory Official _____ Date: **4/4/2011** Verification Expiration Date: **3/18/2012**

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the Customer Satisfaction Survey located at our website at http://per2.nwp.usace.army.mil/survey.html to complete the survey online.

Copy Furnished: **Chris Murray, NCDOT, Div. 5 (By e-mail)**
Heather Montague, NCDOT, Div. 5 (By e-mail)

Determination of Jurisdiction:

☐ Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).

☐ There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

☐ There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

☒ The jurisdictional areas within the above described project area have been identified under a previous action. Please reference the jurisdictional determination issued on **_1/18/2011; AID 2010-01416**

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WILMINGTON DISTRICT
POST-CONSTRUCTION COMPLIANCE FORM

Action ID Number: 2010-01416 County: Franklin

Permittee: NCDOT; Division 5; B-5218; On SR 1451 (Leonard Road), Bridge 61 southwest of Centerville, North Carolina.

Date Permit Issued: 4/4/2011

Project Manager: Eric Alsmeyer

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:

US Army Corps of Engineers, Wilmington District
Raleigh Regulatory Field Office
3331 Heritage Trade Drive, Suite 105
Wake Forest, NC 27587

Please note that your permitted activity is subject to a compliance inspection by a 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 condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

_____ _____

Signature of Permittee Date

NATIONWIDE PERMIT 3
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2007

Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

NATIONWIDE PERMIT 13
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2007

Bank Stabilization. Bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless this criterion is waived in writing by the district engineer;

(c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless this criterion is waived in writing by the district engineer;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless this criterion is waived in writing by the district engineer;

(e) No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any water of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

(g) The activity is not a stream channelization activity.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot along the bank below the plane of the ordinary high water mark or the high tide line. (See general condition 27.) (Sections 10 and 404)

NATIONWIDE PERMIT CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. 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.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. 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.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. 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).

16. 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.

17. 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. No activity is authorized

under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) 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 if the project is located in 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 might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction 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. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) 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.

(e) 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 U.S. FWS 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 U.S. FWS and NMFS or their world wide Web pages at http://www.fws.gov/ and http://www.noaa.gov/fisheries.html respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State

Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, 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) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(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 27, 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.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States 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 losses that exceed 1/10 acre and require pre-construction notification, 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. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(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., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas 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 losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. 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, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. 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 United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, 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 United States for the total project cannot exceed 1/3-acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:
"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate

the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. Compliance Certification. Each permittee who received an NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

(a) A statement that the authorized work was done in accordance with the NWP 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.

27. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will 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 PCN 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 until either:

(1) He or she is 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) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained.

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 Pre-Construction Notification: The PCN 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) A 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. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. 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) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants 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. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) 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.

(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), 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 pre-construction 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 pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) 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. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. 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. The compensatory mitigation proposal may be either conceptual or detailed. 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 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 calendar days of receiving a complete PCN and determine whether the 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 plan 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 plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an 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): 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 non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a

decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

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 table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or

flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through

which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent--meaning bordering, contiguous, or neighboring--to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT

1. Excluded Waters

The Corps has identified waters that will be excluded from the use of all NWP's during certain timeframes. These waters are:

1.1. Anadromous Fish Spawning Areas

Waters of the United States identified by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning areas are excluded during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

1.2. Trout Waters Moratorium

Waters of the United States in the twenty-five designated trout counties of North Carolina are excluded during the period between October 15 and April 15 without prior written approval from the NCWRC. (see Section I. b. 7. for a list of the twenty-five trout counties).

1.3. Sturgeon Spawning Areas

Waters of the United States designated as sturgeon spawning areas are excluded during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).

2. Waters Requiring Additional Notification

The Corps has identified waters that will be subject to additional notification requirements for activities authorized by all NWP's. These waters are:

2.1. Western NC Counties that Drain to Designated Critical Habitat

Waters of the U.S. that requires a Pre-Construction Notification pursuant to General Condition 27 (PCN) and located in the sixteen counties listed below, applicants must provide a copy of the PCN to the US Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28805. This PCN must be sent concurrently to the US Fish and Wildlife Service and the Corps Asheville Regulatory Field Office. Please see General Condition 17 for specific notification requirements related to Federally Endangered Species and the following website for information on the location of designated critical habitat.

Counties with tributaries that drain to designated critical habitat that require notification to the Asheville US Fish and Wildlife Service: Avery, Cherokee, Forsyth, Graham, Haywood,

Henderson, Jackson, Macon Mecklenburg, Mitchell, Stokes, Surry, Swain, Transylvania, Union and Yancey.

Website and office addresses for Endangered Species Act Information:

The Wilmington District has developed the following website for applicants which provide guidelines on how to review linked websites and maps in order to fulfill NWP general condition 17 requirements.

http://www.saw.usace.army.mil/wetlands/ESA

Applicants who do not have internet access may contact the appropriate US Fish and Wildlife Service offices or the US Army Corps of Engineers office listed below.

US Fish and Wildlife Service
Asheville Field Office
160 Zillicoa Street
Asheville, NC 28801
Telephone: (828) 258-3939

Asheville US Fish and Wildlife Service Office counties: All counties west of and including Anson, Stanly, Davidson, Forsyth and Stokes Counties

US Fish and Wildlife Service
Raleigh Field Office
Post Office Box 33726
Raleigh, NC 27636-3726
Telephone: (919) 856-4520

Raleigh US Fish and Wildlife Service Office counties: all counties east of and including Richmond, Montgomery, Randolph, Guilford, and Rockingham Counties.

2.2. Special Designation Waters

Prior to the use of any NWP in any of the following North Carolina identified waters and contiguous wetlands, applicants must comply with Nationwide Permit General Condition 27 (PCN). The North Carolina waters and contiguous wetlands that require additional notification requirements are:

"Outstanding Resource Waters" (ORW) and "High Quality Waters" (HQW) (as designated by the North Carolina Environmental Management Commission), or "Inland Primary Nursery Areas" (IPNA) (as designated by the North Carolina Wildlife Resources Commission), or "Contiguous Wetlands" (as defined by the North Carolina Environmental Management Commission), or "Primary Nursery Areas" (PNA) (as designated by the North Carolina Marine Fisheries Commission).

2.3. Coastal Area Management Act (CAMA) Areas of Environmental Concern

Non-Federal applicants for any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit. Construction activities for non-Federal projects may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889).

2. 4. Barrier Islands

Prior to the use of any NWP on a barrier island of North Carolina, applicants must comply with Nationwide Permit General Condition 27 (PCN).

2.5. Mountain or Piedmont Bogs

Prior to the use of any NWP in a "Mountain or Piedmont Bog" of North Carolina, applicants shall comply with Nationwide Permit General Condition 27 (PCN).

Note: The following wetland community types identified in the N.C. Natural Heritage Program document, "Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

Mountain Bogs	Piedmont Bogs
Swamp Forest-Bog Complex	Upland depression Swamp Forest
Swamp Forest-Bog Complex (Spruce Subtype)	
Southern Appalachian Bog (Northern Subtype)	
Southern Appalachian Bog (Southern Subtype)	
Southern Appalachian Fen	

2.6. Animal Waste Facilities

Prior to use of any NWP for construction of animal waste facilities in waters of the US, including wetlands, applicants shall comply with Nationwide Permit General Condition 27 (PCN).

2.7. Trout Waters

Prior to any discharge of dredge or fill material into streams or waterbodies within the twenty-five (25) designated trout counties of North Carolina, the applicant shall comply with

Nationwide Permit General Condition 27 (PCN). The applicant shall also provide a copy of the notification to the appropriate NCWRC office to facilitate the determination of any potential impacts to designated Trout Waters. Notification to the Corps of Engineers will include a statement with the name of the NCWRC biologist contacted, the date of the notification, the location of work, a delineation of wetlands, a discussion of alternatives to working in the mountain trout waters, why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to mountain trout waters.

NCWRC and NC Trout Counties

Mr. Ron Linville			
Western Piedmont Region Coordinator	Alleghany	Caldwell	Watauga
3855 Idlewild Road	Ashe	Mitchell	Wilkes
Kernersville, NC 27284-9180	Avery	Stokes	
Telephone: (336) 769-9453	Burke	Surry	

Mr. Dave McHenry			
Mountain Region Coordinator	Buncombe	Henderson	Polk
20830 Great Smoky Mtn. Expressway	Cherokee	Jackson	Rutherford
Waynesville, NC 28786	Clay	Macon	Swain
Telephone: (828) 452-2546	Graham	Madison	Transylvania
Fax: (828) 452-7772	Haywood	McDowell	Yancey

3. List of Corps Regional Conditions for All Nationwide Permits

The following conditions apply to all Nationwide Permits in the Wilmington District:

3.1. Limitation of Loss of Perennial Stream Bed

NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of perennial streams. The NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of ephemeral and intermittent streams that exhibit important aquatic function(s)* Loss of stream includes the linear feet of stream bed that is filled, excavated, or flooded by the proposed activity. The District Commander can waive the 300 linear foot limit for ephemeral and intermittent streams on a case-by-case basis if he determines that the proposed activity will result in minimal individual and cumulative adverse impacts to the aquatic environment. Waivers for the loss of ephemeral and intermittent streams must be in writing. This waiver only applies to the 300 linear feet threshold for NWPs. Mitigation may still be required for impacts to ephemeral and intermittent streams, on a case-by-case basis, depending on the impacts to the aquatic environment of the proposed project. [*Note: The Corps uses the Stream Quality Assessment Worksheet, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of aquatic function within the intermittent stream channel.]

3.2. Mitigation for Loss of Stream Bed Exceeding 150 Feet.

For any NWP that results in a loss of more than 150 linear feet of perennial and/or ephemeral/intermittent stream, the applicant shall provide a mitigation proposal to compensate for the loss of aquatic function associated with the proposed activity. For stream losses less than 150 linear feet, that require a PCN, the District Commander may determine, on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effect on the aquatic environment.

3.3. Pre-construction Notification for Loss of Streambed Exceeding 150 Feet.

Prior to use of any NWP for any activity which impacts more than 150 total linear feet of perennial stream or ephemeral/ intermittent stream, the applicant must comply with Nationwide Permit General Condition 27 (PCN). This applies to NWPs that do not have specific notification requirements. If a NWP has specific notification requirements, the requirements of the NWP should be followed.

3.4. Restriction on Use of Live Concrete

For all NWPs which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

3.5. Requirements for Using Riprap for Bank Stabilization

For all NWPs that allow for the use of riprap material for bank stabilization, the following measures shall be applied:

3.5.1. Filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

3.5.2. The placement of riprap shall be limited to the areas depicted on submitted work plan drawings.

3.5.3. The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities that would not have an adverse environmental effect.

3.5.4. It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions.

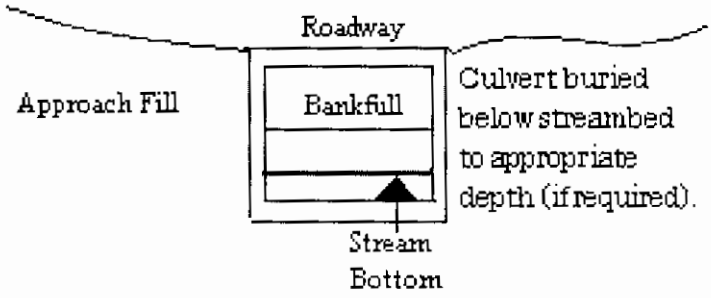
3.5.5. The riprap material shall consist of clean rock or masonry material such as, but not limited to, granite, marl, or broken concrete.

3.5.6. A waiver from the specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional condition would result in greater adverse impacts to the aquatic environment.

3.6. Safe Passage Requirements for Culvert Placement

For all NWPs that involve the construction/installation of culverts, measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gage data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

In the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA): All pipe and culvert bottoms shall be buried at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) quad sheets.



In all other counties: Culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The bottom of the culvert must be placed at a depth below the natural stream bottom to provide for passage during drought or low flow conditions.

Destabilizing the channel and head cutting upstream should be considered in the placement of the culvert.

A waiver from the depth specifications in this condition may be requested in writing. The waiver will be issued if it can be demonstrated that the proposal would result in the least impacts to the aquatic environment.

All counties: Culverts placed in wetlands do not have to be buried.

3.7. Notification to NCDENR Shellfish Sanitation Section

Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination from the disposal area and cause a temporary shellfish closure to be made. Such notification shall also be provided to the appropriate Corps of Engineers Regulatory Field Office. Any disposal of sand to the ocean beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas may be used. If beach disposal were to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swimming advisory shall be posted, and a press release shall be issued.

3.8. Preservation of Submerged Aquatic Vegetation

Adverse impacts to Submerged Aquatic Vegetation (SAV) are not authorized by any NWP within any of the twenty coastal counties defined by North Carolina's Coastal Area Management Act of 1974 (CAMA).

NC DIVISION OF WATER QUALITY - GENERAL CERTIFICATION CONDITIONS

For the most recent General Certification conditions, call the NC Division of Water Quality, Wetlands/401 Certification Unit at (919) 733-1786 or access the following website: http://h2o.enr.state.nc.us/ncwetlands/certs.html

NC DIVISION OF COASTAL MANAGEMENT - STATE CONSISTENCY

In a letter dated May 7, 2007, the North Carolina Division of Coastal Management found this NWP consistent with the North Carolina Coastal Zone Management Program. Updates on CAMA Consistency for NC can be found on the NC DCM web site at: http://dcm2.enr.state.nc.us/Permits/consist.htm

EASTERN BAND OF THE CHEROKEE INDIANS TRIBAL WATER QUALITY CERTIFICATIONS

In a letter dated May 8, 2007, US EPA, on behalf of the Eastern Band of Cherokee Indians, provided Tribal General Conditions for Nationwide Permits on Cherokee Indian Reservation. These Tribal General Conditions are located on the Corps website at: http://www.saw.usace.army.mil/WETLANDS/NWP2007/EBCI-certs.html

Citations:

2007 Nationwide Permits Public Notice for Final Issue Date: March 15, 2007

Correction Notice for Nationwide Permits, Federal Register / Vol. 72, No. 88 / Tuesday, May 8, 2007 / Notices p.26082

2007 SAW Regional Conditions – Authorized June 1, 2007

This and other information can be found on the Corps web site at: http://www.saw.usace.army.mil/WETLANDS/NWP2007/nationwide-permits.html