

Permit Class
MODIFICATION/MINOR

Permit Number
561

STATE OF NORTH CAROLINA
Department of Environmental Quality
and
Coastal Resources Commission

Permit

for

Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to **N.C. Department of Transportation Ferry Division, 159 Lucinda Lane, Powells Point, NC 27966**

Authorizing development in Brunswick/New Hanover County at Cape Fear River at NCDOT Ferry Basin

_____, as requested in the permittee's application letters dated 11/9/20, including
the attached workplan drawing dated 11/9/20.

This permit, issued on 12/10/20, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

- 1) Unless specifically altered herein, this Minor Modification authorizes the placement of approximately 366 linear feet of additional riprap and re-establishment of the berm of the existing Southport Spoil Site, all as depicted on the attached workplan drawing.
- 2) In order to protect juvenile shrimp and finfish populations, no excavation or filling below normal high water shall occur between April 1 and September 30 of any year, without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the appropriate resource agencies.
- 3) No excavation or filling shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawings, without permit modification.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

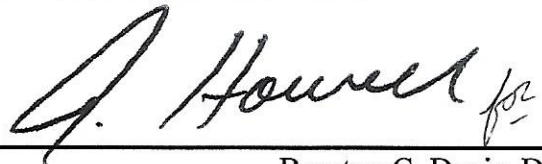
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2024

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DEQ and the Chair of the Coastal Resources Commission.



Braxton C. Davis, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee

ADDITIONAL CONDITIONS

NOTE: Including previous approvals, the new cumulative total length of authorized riprap at the Southport Spoil Site is 803 linear feet.

NOTE: The authorized activities will result in new impacts to approximately 295 square feet of Coastal Wetlands and approximately 0.05 acres of surface waters due to fill.

- 4) The placement of riprap shall be limited to the areas as indicated on the attached workplan drawings. The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities. It shall be of a size sufficient to prevent its movement from the approved alignment by wave or current action. The riprap material shall consist of clean rock or masonry materials such as but not limited to granite or broken concrete.
- 5) The riprap shall not extend waterward more than 10 feet from the normal high water level at any point along its alignment at the time of construction.
- 6) Filter fabric shall be in place prior to the placement of any riprap.
- 7) All materials resulting from regrading of the berm shall be confined above the normal high water level and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 8) This project shall conform to all requirements of the NC Sedimentation Pollution Control Act and the N.C. Department of Transportation (NCDOT's) Memorandum of Agreement with the N.C. Division of Energy, Mineral, and Land Resources.
- 9) The permittee and/or its contractor shall contact the DCM Transportation Project Field Representative in Morehead City at (252) 808-2808 to request a preconstruction conference prior to project initiation.
- 10) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.
- 11) The N.C. Division of Water Resources (DWR) authorized the proposed project on 12/3/20 (DWR Project No. 20190745 v.2) under General Water Quality Certification No. 4134. Any violation of the Certification approved by DWR shall be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 13 (COE Action ID No. SAW-2005-9988983), which was issued on 11/23/20.

- 12) This Minor Modification does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

ADDITIONAL CONDITIONS

- 13) This Minor Modification shall be attached to the original of Permit No. 561, which was issued on 2/18/72, as well as all subsequent modifications, letters of refinement and renewals, and copies of all documents shall be readily available on site when a Division representative inspects the project for compliance.
- 14) All conditions and stipulations of the active permit remain in force under this Minor Modification unless altered herein.

NOTE: A minor modification application processing fee of \$100 was received by DCM for this project.



NORTH CAROLINA
Environmental Quality

ROY COOPER

Governor

MICHAEL S. REGAN

Secretary

S. DANIEL SMITH

Director

December 3, 2020

NCDWR # 20190745 V2
Brunswick County

NCDOT Ferry Division
Attn: Mr. Brian Doliber
159 Lucinda Lane
Powells Point, NC 27966

Subject: Modification to the 401 WATER QUALITY CERTIFICATION WITH ADDITIONAL CONDITIONS
NCDOT Ferry Division Southport Ferry Spoil Site Shoreline Stabilization Project,
Brunswick County

Dear Mr. Doliber:

This approval is a modification of the original 401 approval issued on June 27, 2019. You have our approval for the additional impacts listed below for the purpose described in your application dated November 9, 2020, received by the Division of Water Resources (Division) November 25, 2020 with subsequent information on December 3, 2020. These impacts are covered by the attached Water Quality General Certification Number 4134 and the conditions listed below. **This Certification replaces the Certification issued on June 27, 2019.** This certification is associated with the use of Nationwide Permit Number 13 once it is issued to you by the U.S. Army Corps of Engineers. Please note that you should get any other federal, state or local permits before proceeding with your project, including those required by (but not limited to) Sediment and Erosion Control, Non-Discharge, and Water Supply Watershed regulations.

The Division has determined that the proposed project will comply with water quality requirements provided that you adhere to the conditions listed in the certification and to the additional conditions itemized below.

The following proposed impacts are hereby approved. No other impacts are approved, including incidental impacts. [15A NCAC 02H .0506(b)]

Wetland Impacts in the Cape Fear River Basin

Site	Fill (ac)	Fill (temporary) (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Area under Bridge (ac)	Total Wetland Impact (ac)
New additional impacts with this approval to extend the berm an additional 366 linear feet	0.007 (coastal marsh)						0.007
Total	0.007						0.007

Total Wetland Impact for (Site/Modification): 0.007 acres.



Open Water Impacts in the Cape Fear River Basin

Site	Permanent Fill in Open Waters (ac)	Temporary Fill in Open Waters (ac)	Total Fill in Open Waters (ac)
Original approved riprap berm extension for 437 linear feet	0.03		0.03
New additional impacts with this approval for an additional 366 linear feet	0.05		0.05
Total	0.08		0.08

Total Open Water Impact for (Site/Modification): 0.08 acres.

This approval is for the purpose and design described in your application. The plans and specifications for this project are incorporated by reference as part of this Certification. If you change your project, you must notify the Division and you may be required to submit a new application package with the appropriate fee. If the property is sold, the new owner must be given a copy of this Certification and is responsible for complying with all conditions. [15A NCAC 02H .0507(d)(2)].

If you are unable to comply with any of the conditions of the attached Water Quality General Certification or with the additional conditions itemized below, you must notify the Wilmington Regional Office within 24 hours (or the next business day if a weekend or holiday) from the time the permittee becomes aware of the circumstances.

The permittee shall report to the Wilmington Regional Office any noncompliance with, and/or any violation of, stream or wetland standards [15A NCAC 02B .0200] including but not limited to sediment impacts to streams or wetlands. Information shall be provided orally within 24 hours (or the next business day if a weekend or holiday) from the time the permittee became aware of the non-compliance circumstances.

Project Specific Conditions

1. The NCDOT Ferry Division Project Manager will conduct a pre-construction meeting with all appropriate staff to ensure that the project supervisor and essential staff understand the potential environmental issues with the permitted site. NCDWR staff shall be invited to the pre-construction meeting. [15A NCAC 02H.0506(b)(2) and (b)(3)]

General Conditions

2. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and downstream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWR. If this condition is unable to be met due to bedrock or other limiting features encountered during

construction, please contact NCDWR for guidance on how to proceed and to determine whether or not a permit modification will be required. [15A NCAC 02H.0506(b)(2)]

3. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills. [15A NCAC 02B.0200]
4. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers. [15A NCAC 02H.0506(b)(2)]
5. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions. [15A NCAC 02H.0506(b)(2)]
6. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage. [15A NCAC 02H.0506(b)(2)]
7. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
8. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water. [15A NCAC 02H.0506(b)(3) and (c)(3)]
9. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream. [15A NCAC 02H.0506(b)(3)]
10. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials. [15A NCAC 02H.0506(b)(3)]
- 11.No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification. [15A NCAC 02H.0506(b)(3)]
- 12.Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited. [15A NCAC 02H.0506(b)(3)]
- 13.The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If the NCDWR determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, the NCDWR may reevaluate and modify this certification. [15A NCAC 02B.0200]

14. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification. [15A NCAC 02H.0506(b)(2)]
15. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
16. 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. [15A NCAC 02H.0501 and .0502]
17. 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.
18. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery. [15A NCAC 02B.0506(b)(2)]
19. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Project manager shall complete and return the enclosed "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]
20. Native riparian vegetation must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction. [15A NCAC 02B.0231(a)(6)]
21. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities. [15A NCAC 02H.0506(b)(3) and (c)(3)]
22. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards [15A NCAC 02H.0506(b)(3) and (c)(3)]:
 - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.

- c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.

23. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification. [15A NCAC 02H.0506(b)(3) and (c)(3)]

This approval and its conditions are final and binding unless contested. [G.S. 143-215.5]

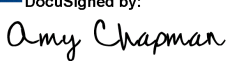
This Certification can be contested as provided in Chapter 150B of the North Carolina General Statutes by filing a Petition for a Contested Case Hearing (Petition) with the North Carolina Office of Administrative Hearings (OAH) **within sixty (60) calendar days**. Requirements for filing a Petition are set forth in Chapter 150B of the North Carolina General Statutes and Title 26 of the North Carolina Administrative Code. Additional information regarding requirements for filing a Petition and Petition forms may be accessed at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000.

One (1) copy of the Petition must also be served to the North Carolina Department of Environmental Quality:

William F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

This letter completes the review of the Division under section 401 of the Clean Water Act and 15A NCAC 02H .0500. Please contact Joanne Steenhuis at (910) 796-7206 or joanne.steenhuis@ncdenr.gov if you have any questions or concerns.

Sincerely,

DocuSigned by:


9C9886312DCD474...

Amy Chapman

Supervisor

Transportation 401 & Buffer Permitting Branch
Division of Water Resources, NCDEQ

cc: Brad Shaver – USACE Wilmington Regulatory Field Office (via email)
Gary Jordan, US Fish and Wildlife Service
Travis Wilson, NC Wildlife Resources Commission
Cathy Brittingham, NC Division of Coastal Management
File Copy

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

Action Id. SAW-2005-9988983 County: Brunswick U.S.G.S. Quad: NC-Kure Beach

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Permittee: NCDOT-Ferry Division
Brian Doliber
Address: 159 Lucinda Lane
Powells Point, NC 27966
E-mail: bcdoliber@ncdot.gov

Size (acres)	<u>12.18</u>	Nearest Town	<u>Southport</u>
Nearest Waterway	<u>Price Creek</u>	River Basin	<u>Cape Fear</u>
USGS HUC	<u>03030005</u>	Coordinates	Latitude: <u>33.932887</u> Longitude: <u>-77.991897</u>

Location description: The project is located along the toe of the existing spoil island utilized by the Ferry Division at the mouth of Price's Creek as it intersects the Cape Fear River at the Southport Ferry Landing.

Description of projects area and activity: This verification authorizes 366' of shoreline stabilization utilizing Class 2 rip rap on the eastern side and northern end of the existing rip rap to protect the existing spoil island at the Southport Ferry Landing. The width of the rip rap will be no greater than 20' and will not extend beyond the OHWM more than 10'. The rip rap will average 0.48 cubic yards below the OHWM per running foot. The rip rap will result in the loss of 295 square feet of Spartina alterniflora marsh in order to make a proper connection to the existing shoreline stabilization.

**** Note: There is existing 437' of rip rap on site, therefore this authorization will take the total number of linear feet of rip rap to 803' feet thus requiring a waiver from General Permit conditions. Additionally, the impacts to the special aquatic site requires the same waiver. Both waivers have been approved by signature below.**

Applicable Law(s): Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)

Authorization: **NWP 13. Bank Stabilization**

SEE ATTACHED NWP GENERAL, REGIONAL, AND/OR SPECIAL CONDITIONS

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the enclosed Conditions, your application signed and dated 11/9/2020, and the enclosed plans "Southport Ferry Rip-Rap Extension" dated 11/9/2020. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order, a Class I administrative penalty, and/or appropriate legal action.

This verification will remain valid until the expiration date identified below unless the nationwide authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all requirements of the modified nationwide permit. If the nationwide permit authorization expires or is suspended, revoked, or is modified, such that the activity would no longer comply with the terms and conditions of the nationwide permit, activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon the nationwide permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide permit's expiration, modification or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend or revoke the authorization.

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 Resources (telephone 919-807-6300) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management **Morehead City, NC, at (252) 808-2808.**

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 **Brad Shaver at 910-251-4611 or brad.e.shaver@usace.army.mil**.

Corps Regulatory Official: SUGG.MICKEY.T.122980 0830 Digitally signed by SUGG.MICKEY.T.1229800830 Date: 2020.11.23 11:13:39 -05'00' Date: **11/23/2020**

FOR THE DISTRICT COMMANDER

Expiration Date of Verification: **03/18/2022**

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 http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

Copy furnished(electronic):

NCDEQ-DWR attn: Ms. Joanne Steenhuis
NCDEQ-DCM attn: Mr. Stephen Lane

Action ID Number: SAW-2005-9988983 County: Brunswick

Permittee: NCDOT-Ferry Division, Brian Doliber

Project Name: Southport Ferry Rip-Rap Extension

Date Verification Issued: 11/23/2020

Project Manager: Brad Shaver

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
Attn: Brad Shaver
Wilmington Regulatory Office
U.S Army Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403
or
brad.e.shaver@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. Failure to comply with any terms or conditions of this authorization may result in the Corps suspending, modifying or revoking the authorization and/or issuing a Class I administrative penalty, or initiating other appropriate legal action.

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