

Permit Class
MODIFICATION/MINOR

Permit Number
38-02

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 NCDOT Ferry Division, 159 Lucinda Lane, Powells Point, NC 27966

Authorizing development in Dare County at Stumpy Point Bay, off SR 1164 at Stumpy Point Emergency Terminal, as requested in the permittee's application letter dated 5/19/21, including the attached workplan drawings (2): 1 dated 3/8/21 and 1 dated 4/14/21.

This permit, issued on May 24, 2021, 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 following: the use of a barge and excavator to remove approximately 1,500 cubic yards of material from the Stumpy Point Ferry Basin in an area of approximately 225 feet x 60 feet to an excavation depth of -10 feet below normal water level at the ramp and tie-up slips; and a one-time approval to conduct the authorized excavation during the in-water work moratorium (February 15 to October 31), all as depicted on the attached workplan drawings.
- 2) This Minor Modification does not authorize any change to the previously authorized length, width and location of the State Emergency Ferry Channel and Basin.
- 3) The depth of excavation shall not exceed -10 feet below the normal water level. Overdredging is specifically prohibited. In no case shall excavation exceed the depth of connecting waters.

(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.

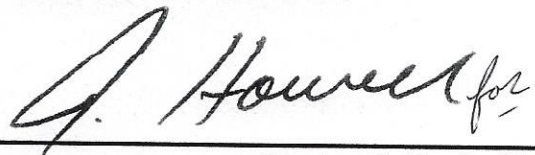
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2021

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: Condition No. 1 of the Renewal for CAMA Major Permit 38-02 issued on January 5, 2017 requires that in order to protect Essential Fish Habitat (EFH) and related fishery resources, no excavation shall be permitted between the dates of February 15 and October 31 of any year without the prior approval of the N.C. Division of Coastal Management (DCM), in coordination with the appropriate resource agencies.

NOTE: In comments dated April 16, 2021, the N.C. Division of Marine Fisheries (DMF) indicated that it is amenable to granting this one-time relief request for work during the fisheries moratorium.

NOTE: In comments dated April 26, 2021, the National Marine Fisheries Service (NMFS) indicated that it is amenable to the one-time request for work during the fisheries moratorium.

- 4) Nothing in this permit authorizes any activity that has not received approval, if required, from the U.S. Fish and Wildlife Service (USFWS) for work within the Alligator River National Wildlife Refuge.
- 5) In order to protect the endangered West Indian Manatee, *Trichechus manatus*, the applicant shall implement the U.S. Fish & Wildlife Service's Guidelines, and strictly adhere to all requirements therein. The guidelines can be found at <https://www.fws.gov/raleigh/pdfs/ManateeGuidelines2017.pdf>
- 6) No fill shall be placed within waters or wetlands of the State, without permit modification.
- 7) No excavation 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.
- 8) All excavated materials shall be confined landward of the normal high-water level and outside of any regularly or irregularly flooded vegetated wetlands within adequate dikes or other retaining structures to prevent spillover of solids or seepage of effluent into any vegetated wetlands or surrounding waters.
- 9) Material excavated from the project site shall be removed from the site and taken to an approved high ground location once properly dewatered.
- 10) The permittee and/or his contractor shall provide for proper storage and handling of all oils, chemicals, etc., necessary to carry out the project.
- 11) Construction staging areas shall be located only in upland areas and/or project related barges, and not in wetlands or waters of the State.
- 12) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and properties (e.g. silt fence, diversion swales or berms, etc.).
- 13) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent wetlands or waters of the State, even temporarily.

ADDITIONAL CONDITIONS

- 14) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawing 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.
- 15) The permittee and/or its contractor shall contact the DCM Transportation Project Field Representative in Elizabeth City to request a preconstruction conference.
- 16) No attempt shall be made by the permittee to prevent use by the public of all navigable waters at or adjacent to the authorized work following completion of construction.
- 17) The N.C. Division of Water Resources (DWR) authorized the proposed project on 5/21/21 (DWR Project No. 20170056 v.2) under General Water Quality Certification No. 4142. Any violation of the Certification approved by DWR shall be considered a violation of this CAMA permit.
- 18) This Minor Modification does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.
- 19) This Minor Modification shall be attached to the original of Permit No. 38-02, which was issued on 4/2/02, 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.
- 20) All conditions and stipulations of the active permit remain in force under this Minor Modification unless altered herein.

NOTE: The U.S. Army Corps of Engineers has assigned the proposed project COE Action ID No. SAW-2006-41252.

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

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

Action Id. SAW-2006-41252 County: DareCounty U.S.G.S. Quad: Engelhard NE

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Permittee: Brian Doliber
NCDOT Ferry Division
Address: 159 Lucinda Lane
Powells Point NC, 27966
Telephone Number: (252) 232-8025

Size (acres) 1 Nearest Town Manns Harbor
Nearest Waterway Pamlico Sound River Basin Albemarle-Chowan
USGS HUC 03010205 Coordinates Latitude: 35.6970469284
Longitude: -75.7703943756

Location description: The project area is located at the NCDOT/Ferry Division Stumpy Point Ferry Terminal adjacent to US 264 approximately 14.8 miles south of Manns Harbor in Stumpy Point in Dare County, North Carolina.

Description of projects area and activity: NCDOT/Ferry Division proposes to dredge approximately 1500 cubic yards of accumulated sediments from the Stumpy Point Ferry Terminal and place it in the Stumpy Point Disposal Cell within the Alligator River NWR.

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

Authorization: Regional General Permit Number and/or Nationwide Permit Number: 35
SEE ATTACHED RGP or 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 attached conditions and your submitted application and attached information dated May 14, 2021. 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 and/or regional general permit authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide and/or regional general 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 and/or regional general 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 and/or regional general permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide and/or regional general 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 in Elizabeth City, NC, at (252) 264-3901.

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 Kyle Barnes at (910) 251-4584 or Kyle.W.Barnes@usace.army.mil.

Corps Regulatory Official: Kyle Barnes Date: May 24, 2021
Expiration Date of Verification: March 18, 2022

A. Determination of Jurisdiction:

- There are waters on the above described project area that may be subject to Section 404 of the Clean Water Act (CWA) (33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction. Please note, if work is authorized by either a general or nationwide permit, and you wish to request an appeal of an approved JD, the appeal must be received by the Corps and the appeal process concluded prior to the commencement of any work in waters of the United States and prior to any work that could alter the hydrology of waters of the United States.
- 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 (RHA) (33 USC § 403) and 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.
- There are waters, including wetlands, within the above described project area that are 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.
- A jurisdiction determination was not completed with this request. Therefore, this is not an appealable action. However, you may request an approved JD, which is an appealable action, by contacting the Corps for further instruction.
- The aquatic resources within the above described project area have been identified under a previous action. Please reference the approved jurisdictional determination issued . Action ID: SAW- .

B. Basis For Jurisdictional Determination: The Waters within the project area are subject to the ebb and flow of tides and flows to the Pamlico Sound.

C. Remarks:

D. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

E. Appeals Information for Approved Jurisdiction Determinations (as indicated in A2 and A3 above).

If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Philip Shannin, Appeal Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for an appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **Not Applicable**.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.

Corps Regulatory Official: _____


Kyle Barnes

Date of JD: **May 24, 2021**

Expiration Date of JD: **Not Applicable**

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 our Customer Satisfaction Survey, located online at http://corpsmapu.usace.army.mil/cm_apex/?p=136:4:0.

SPECIAL CONDITIONS

- A. The NCDOT Ferry Division shall implement the “Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters” as identified by the USFW Service.

Action ID Number: SAW-2006-41252 County: Dare County

Permittee: Brian Doliber
NCDOT Ferry Division

Project Name: Stumpy Point Ferry Basin Expansion

Date Verification Issued: May 19, 2021

Project Manager: Kyle Barnes

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: Kyle Barnes

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

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: **Brian Doliber NCDOT Ferry Division**

File Number: **SAW-2006-41252**

Date: **May 24, 2021**

Attached is:

See Section below

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission) |
| <input type="checkbox"/> | PROFFERED PERMIT (Standard Permit or Letter of permission) |
| <input type="checkbox"/> | PERMIT DENIAL |
| <input type="checkbox"/> | APPROVED JURISDICTIONAL DETERMINATION |
| <input checked="" type="checkbox"/> | PRELIMINARY JURISDICTIONAL DETERMINATION |

A
B
C
D
E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
District Engineer, Wilmington Regulatory Division,
Attn: Kyle Barnes
2407 West 5th Street
Washington, North Carolina 27889

If you only have questions regarding the appeal process you may also contact:
 Mr. Philip Shannin, Administrative Appeal Review Officer
 CESAD-PDO
 U.S. Army Corps of Engineers, South Atlantic Division
 60 Forsyth Street, Room 10M15
 Atlanta, Georgia 30303-8801
 Phone: (404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation and will have the opportunity to participate in all site investigations.

_____ Signature of appellant or agent.	Date:	Telephone number:
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For appeals on Initial Proffered Permits send this form to:

**District Engineer, Wilmington Regulatory Division, Attn: Kyle Barnes, 2407 West 5th Street
 Washington, North Carolina 27889**

For Permit denials, Proffered Permits and approved Jurisdictional Determinations send this form to:

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Philip Shannin, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
 Phone: (404) 562-5137**

ROY COOPER

Governor

DIONNE DELIL-GATTI

Secretary

S. DANIEL SMITH

Director

May 21, 2021
 Dare County
 NCDWR Project No. 20170056 v.2
 Stumpy Point Maintenance Dredging

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

Brian Doliber
 NCDOT, Ferry Division
 159 Lucinda Lane
 Powells Point, NC 27966

Dear Mr. Doliber:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of maintenance dredging at the Stumpy Point Ferry Terminal in Dare County:

Open Water Impacts in the Pasquotank River Basin

Site	Excavation in Open Waters (ac)
Stumpy Point Bay	0.30

The project shall be constructed in accordance with your application dated received May 14, 2021. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 4142. This certification corresponds to the Nationwide Permit 35 issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 300 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

Condition(s) of Certification:

Project Specific Conditions

1. This approval authorizes the excavation of approximately 1,500 cubic yards of bottom material. This material shall be properly disposed of into the approved US Fish and Wildlife Service upland spoil site. [15A NCAC 02H.0506(b)(2)(3)]



2. Adherence to *The Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters* will be required throughout construction.
3. The permittee will need to adhere to all appropriate in-water work moratoria (including the use of pile driving or vibration techniques) prescribed by the NC Division of Marine Fisheries (DMF) and the National Marine Fisheries Service (NMFS). At this time DMF and NMFS have granted a one time relief for Stumpy Point dredging. Any change in the proposed scope of work will require further coordination with DMF and NMFS.

General Conditions

1. 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.
2. 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)]
3. No rock, sand or other materials shall be dredged from the channel except where authorized by this certification. [15A NCAC 02H.0506(b)(3)]
4. 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 construction activities. [15A NCAC 02H.0506(b)(3) and (c)(3)]
5. 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.
6. 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)]
7. 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)]
8. 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]



9. 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)]
10. 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)]
11. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete the "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]

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

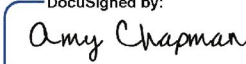
The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.
The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

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

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

This letter completes the review of the Division of Water Resources under Section 401 of the Clean Water Act. If you have any questions, please contact Garcy Ward at (252)948-3917 or garcy.ward@ncdenr.gov.

Sincerely,
DocuSigned by:

9C9886312DCCD474...
S. Daniel Smith, Director
Division of Water Resources

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