

CAPE HATTERAS NATIONAL PARK SERVICE SPECIAL USE PERMIT



SPECIAL USE PERMIT

Outer Banks Group:
Cape Hatteras NS, Fort Raleigh NHS, & Wright Brothers NMEM
1401 National Park Drive
Manteo, NC 27954
(252) 475-9000 caha_special_use_permits@nps.gov

Name Jerry Jennings, P.E.			
Company/Organization NC Department of Transportation – Ferry Division			
Street Address 113 Airport Drive, Suite 100			
City Edenton	State NC	Zip Code 27932	Country
Telephone Number 252-482-1850		Cell Phone Number 252-312-3692	
Fax Number			
Email Address			

Park Alpha Code
CAHA
Type of Use

Permit #
5700-027

is hereby authorized to use the following described land or facilities on the Cape Hatteras National Seashore including park land abutting and adjoining the NCDOT Ferry Terminal in Hatteras Village and park land situated in Ocracoke Village at the park's Marina adjacent to NCDOT Ferry Docks in Silver Lake

The permit begins at 8:00 am / pm on 7/14/17. The permit expires at 6:00 am / pm on 12/31/18.

SUMMARY OF PERMITTED ACTIVITY: The construction of several visitor improvements for the Hatteras-Ocracoke Passenger Ferry Project as presented in the July 2017 Finding of No Significant Impact decision document to Support Improvements for the Hatteras-Ocracoke Passenger Ferry Environmental Assessment. Specific actions are outlined below:

- Existing Hatteras ferry terminal space will be converted into two additional parking lots to accommodate passenger vehicles and NCDOT ferry division employees (approximately 0.2 & 0.4 acres in size to create 65 additional parking spaces, more or less) (Fig 1).
- A new open air passenger waiting facility (~1500 sq.ft.) will be constructed in front of the Ocracoke visitor center to shelter passenger ferry users from the sun and rain (Fig 2).
- Sidewalk improvements to connect the passenger waiting area to the Ocracoke visitor center and ferry dock will be constructed to create safe passage ways for travelers (Fig 2).
- A transit pullout area in front of the Ocracoke visitor center will be constructed to allow for safe pick-up and drop-off of passenger ferry users (Fig 2).
- Three new restroom (one male, one female and one family/gender neutral) facilities will be constructed behind the Ocracoke visitor center on the existing permit trailer foundation to augment the NPS's existing restroom facilities (Fig 2).
- Relocation of the existing boardwalk/ramp at the visitor center to the right side of the deck area.
- Construct floating ferry dock between the NPS boat docks (Fig 2).

Person on site responsible for adherence to the terms and conditions of the permit (include contact information)
As named above

Authorizing legislation or other authority: 36 CFR Chptr 1, Part 1.6 & 2.50

APPLICATION FEE

Received Amount
 Not Required \$

PERFORMANCE BOND

Required Amount
 Not Required \$

LIABILITY INSURANCE

Required Amount
\$1,000,000
ACORD

COST RECOVERY

Required Amount
 Not Required \$

LOCATION FEE

Required Amount
 Not Required \$



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ISSUANCE of this permit is subject to the attached conditions. The undersigned hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied herein.


PERMITTEE Signature

Title: *Division Environmental Super.*

Date: *8/8/17*


Authorizing NPS Official

Title: Deputy Superintendent

Date: *7/20/2017*

CONDITIONS OF THIS PERMIT

Failure to comply with any of the terms and conditions of this permit may result in the immediate suspension or revocation of the permit. [36 CFR 1.6(h)]

1. The permittee is prohibited from giving false information; to do so will be considered a breach of conditions and be grounds for revocation: [36 CFR 2.32(a) (3)].
2. This permit may not be transferred or assigned without the prior written consent of the Superintendent.
3. The permittee shall exercise this privilege subject to the supervision of the Superintendent or designee, and shall comply with all applicable Federal, State, county and municipal laws, ordinances, regulations, codes, and the terms and conditions of this permit. Failure to do so may result in the immediate suspension of the permitted activity or the revocation of the permit. All costs associated with clean up or damage repairs in conjunction with a revoked permit will be the responsibility of the permittee.
4. The permittee is responsible for making all necessary contacts and arrangements with other Federal, State, and local agencies to secure required inspections, permits, licenses, etc.
5. The park area associated with this permit will remain open and available to the public during park visiting hours. This permit does not guarantee exclusive use of an area. Permit activities will not unduly interfere with other park visitors' use and enjoyment of the area.
6. This permit may be revoked at the discretion of the Superintendent upon 24 hours notice.
7. This permit may be revoked without notice if damage to resources or facilities occurs or is threatened, notwithstanding any other term or condition of the permit to the contrary.
8. This permit is made upon the express condition that the United States, its agents and employees shall be free from all liabilities and claims for damages and/or suits for or by reason of any injury, injuries, or death to any person or persons or property of any kind whatsoever, whether to the person or property of the Permittee, its agents or employees, or third parties, from any cause or causes whatsoever while in or upon said premises or any part thereof during the term of this permit or occasioned by any occupancy or use of said premises or any activity carried on by the Permittee in connection herewith, and the Permittee hereby covenants and agrees to indemnify, defend, save and hold harmless the United States, its agents, and employees from all liabilities, charges, expenses and costs on account of or by reason of any such injuries, deaths, liabilities, claims, suits or losses however occurring or damages growing out of the same.
9. Permittee agrees that it shall be liable for its actions and actions of its officers, employees, involuntary servant or agent of the State to the extent allowable under the North Carolina Tort Claims Act. Permittee also agrees to require its contractors, subcontractors and agents to carry general liability insurance against claims occasioned by the action or omissions of its contractors, subcontractors, agents and employees in carrying out the activities and operations authorized by this permit. The policy shall be in the amount(s) as specified on page 1 of this permit and underwritten by a



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United States company naming the United States of America as additionally insured. The permittee agrees to provide the Superintendent with such Certificate of Insurance with the proper endorsements prior to the commencement of an activity under this permit.

10. Permittee agrees to deposit with the park a bond in the amount of \$ N/A from an authorized bonding company or in the form of cash or cash equivalent, to guarantee that all financial obligations to the park will be met.
11. Costs incurred by the park as a result of accepting and processing the application and managing and monitoring the permitted activity will be reimbursed by the permittee. Administrative costs and estimated costs for activities on site must be paid when the permit is approved. If any additional costs are incurred by the park, the permittee will be billed at the conclusion of the permit. Should the estimated costs paid exceed the actual costs incurred, the difference will be returned to the permittee.
12. The person(s) named on the permit as in charge of the permitted activity on-site must have full authority to make any decisions about the activity and must remain available at all times. He/she shall be responsible for all individuals, groups, vendors, etc. involved with the permit.
13. Nothing herein contained shall be construed as binding the Service to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this permit for the fiscal year, or to involve the Service in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.
14. If any provision of this permit shall be found to be invalid or unenforceable, the remainder of this permit shall not be affected and the other provisions of this permit shall be valid and be enforced to the fullest extent permitted by law.
15. **In the event of an emergency, dial 911. In the event of an incident that does not require emergency assistance, dial 252-473-3444.**
16. As part of planning for this project, the permittee provided an Environmental Assessment of the project from which the park was able to determine that the projects proposed construction activities will not have a significant effect on the human environment in accordance with Section 102(2) (C) of NEPA and that impacts to natural and cultural resources within the project area will either have no, or minimal adverse impacts from project actions. A full copy of the park's signed Finding of No Significant Impact for the project is attached, and specifically incorporated herein as if fully rewritten here.
17. The permittee's primary contracts for these projects while on site shall be the park's Point of Contact Shelly Rollinson (252-475-8318) for Hatteras Island, and Tracey Fox (252-475-4461) for Ocracoke Island. Provide the park POC's with the project schedule as soon as it is known and provide periodic updates of project work. The park public information officer will be notified by park POC's at least two weeks in advance of scheduled work and/or when start date has been established by contract, so that a news release may be provided to the public.

General Construction

18. Building and site design will be as compatible as practicable with the existing architectural characteristics of the park facilities through similar architectural features, materials, and color.
19. The project shall include a pre-construction meeting and a final inspection meeting, in addition to regularly scheduled project meetings and site visits.
20. All construction generated debris will be removed from the park to an approved landfill.
21. Any park infrastructure impacted during construction, including but not limited to paved and unpaved roadways, walkways, turf, shall be restored to pre-construction conditions upon completion of the project.
22. Construction materials shall be chosen so as to cause as little impact to the site as possible. Treated lumber and any other materials which might cause detrimental leaching shall be avoided.
23. Construction Zone shall be clearly marked. Fencing or other type of NPS approved temporary barriers shall be installed.



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24. Project activities shall allow reasonable access for visitors, partners, and employees commuting to/from local communities. Important not to unreasonably deter visitor access to park facilities.
25. Additional standard conditions within the SUP shall be adhered to.
26. Project applicant will forward a copy of all other agency permits related to the undertaking of the project. Copies will be forwarded to the park's compliance office for inclusion in the project's administrative record.
27. Dock construction and placement of fill for parking areas and other upland improvements at both harbor locations require a permit from the North Carolina Division of Coastal Management (NCDCM) pursuant to the Coastal Area Management Act (CAMA).

Soils and Vegetation

28. Project limits of disturbance (LOD) will be clearly marked and verified prior to any construction work. No work shall be conducted beyond the marked LOD.
29. At completion of action/project, area used is restored in a timely manner to pre-action or better condition (e.g. all temporary marking/fencing/flagging is removed). Follow-up monitoring may be required if area not restored to the satisfaction of the Superintendent.
30. Fueling of any type, whether equipment or vehicles, must be done either on non-pervious surfaces such as concrete or asphalt, or deploy a spill containment pad.
31. Equipment must be free of any fluid leaks (fuel, oil, hydraulic fluid, etc.) upon arrival to the work site and will be inspected at the beginning of each shift for leaks. Leaking equipment will be removed off site for necessary repairs before the commencement of work.
32. Parking of personal vehicles will be within designated areas only. Only company/government vehicles are permitted on site.
33. Contractor must be required to maintain fence lines once they have been installed and/or repaired.
34. Construction materials staging areas will be restricted to previously disturbed sites.
35. Project leaders, during project planning, shall develop erosion control design elements. This erosion plan shall be reviewed and approved by the appropriate federal, state, local review authorities.
36. Construction activities shall be restricted during saturated soil conditions or severe weather conditions to avoid damage to soils and vegetation.
37. Ground surface treatment will include grading to natural contours, topsoil and topsoil mantle replacement, seeding, and planting. This work will occur as soon after the completion of construction as possible.
38. Soil and fill material must be weed-free and from a source approved by the National Park Service.
39. To minimize the amount of ground disturbance, staging and stockpiling areas shall be located in previously disturbed sites, away from visitor use areas to the greatest extent possible. All staging and stockpiling areas shall be returned to pre-construction conditions following construction.
40. Soil disturbance shall be minimized to the greatest extent possible to reduce disturbance to native plants and reduce the potential for the introduction or spread of invasive non-native plant species.

Archeological Resources

41. Should construction unearth cultural resources, work will be stopped in the area of discovery and the park will consult with the State Historic Preservation Officer and the in accordance with §36 CFR 800.13, Post Review Discoveries. In the unlikely event that human remains are discovered during construction, provisions outlined in the Native American Graves Protection and Repatriation Act (1990) will be followed.

Visitor Use and Experience

42. A public information program to warn of temporary closures, delays, and road hazards during construction shall be implemented. This program will help convey appropriate messages to the public and aid in mitigating potential impacts on visitors' expectations and experiences.
43. Provide the public with the project schedule as soon as it is known and provide periodic updates of project work.
44. To the extent practical, work shall be scheduled to avoid construction activity and construction related delays during peak visitation times. No holiday or night time work shall be allowed. Weekend work (Friday through Sunday) shall not be allowed unless authorized in writing by the park's Superintendent.
45. No amplified artificial music (stereos, smartphones, etc.) will be allowed while conducting construction activities within visitor use areas such as the Ocracoke visitor center area.



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46. To reduce noise and pollution emissions, construction equipment will not idle any longer than is necessary for safety and/or mechanical reasons.
47. If the improvements made under this permit fall into disrepair, be damaged or destroyed and not restored by the permittee, or cease to be used further for the purpose it was intended, then the Superintendent, at his/her discretion, may terminate this permit and the permittee's continued use of the area and may require the permittee to restore the area to park land at the permittee's cost, all to the entire satisfaction of the Superintendent.

Superintendent may revoke the permit and/or stop the construction project should any of the permit conditions or best management practices as set out herein be violated.

DIVISION OF COASTAL MANAGEMENT MAJOR PERMIT

Permit Class

MODIFICATION/MAJOR

Permit Number

224-87

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. DOT Ferry Division, 159 Lucinda Lane, Powells Point, NC 27966

Authorizing development in Hyde and Dare County at Hatteras Inlet, Hatteras Island Ferry Basin,
and Silver Lake Harbor, as requested in the permittee's application dated 7/13/17, including
attached workplan drawings (43) as referenced in Condition No. 2 of this permit.

This permit, issued on October 9, 2017, 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.

Ocracoke-Hatteras Passenger Ferry

- 1) Unless specifically altered herein, this Major Modification authorizes the following infrastructure improvements to two existing ferry facilities related to the proposed passenger ferry route between Hatteras Island and Ocracoke Island: (a) two additional parking lots; (b) two stormwater infiltration basins; (c) approximately 185 linear feet of trench drain; (d) two open air covered passenger waiting pavilions; (e) gravel construction entrances; (f) reconfiguration of some existing piles and dolphin structures; (g) floating dock structures; (h) sidewalk/ramp/boardwalk/path improvements; (i) a transit pull out area for a passenger tram; (j) additional restroom building; (k) associated utility work; (l) parking lot and fencing improvements; and (m) miscellaneous additional improvements, all as depicted on the attached workplan drawings.

(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.

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

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.

Braxton C. Davis, Director
Division of Coastal Management

All work must cease when the permit expires on

This permit and its conditions are hereby accepted.

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.

Signature of Permittee

ADDITIONAL CONDITIONS

- 2) Unless specifically altered herein, all work authorized by this permit shall be carried out in accordance with the following attached workplan drawings, 22 dated 5/1/17, 9 dated 5/10/17, 6 dated as received 8/8/17, 4 dated 6/28/17, 2 dated 7/12/17, & 2 dated 8/11/17, except as modified herein.
- 3) In accordance with commitments made by the permittee, 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 http://www.fws.gov/nc-es/mammal/manatee_guidelines.pdf.

NOTE: The State Historic Preservation Office Representative signed the Historic Architecture and Landscapes Assessment of Effects Form on January 24, 2017 with concurrence that the proposed project will have a "de minimus" effect on historic properties, including the National Register-listed Ocracoke Historic District and the Cape Hatteras National Seashore.

- 4) The authorized activities shall not result in any permanent or temporary impacts to wetlands, without permit modification.
- 5) No new excavation or fill shall occur within waters of the State, either by conventional methods or by prop wash "kicking", without permit modification.
- 6) Construction staging areas shall be located only in upland areas, and not in wetlands or waters of the State.
- 7) Any waste materials or debris associated with construction, demolition, or other activities shall not enter wetlands or waters of the State, even temporarily. It shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.
- 8) This Permit authorizes only the floating dock structures, piles, and dolphin structures and associated structures and uses located in or over the water that are expressly and specifically set forth in the permit application. No other structure, whether floating or stationary, may become a permanent part of this facility without permit modification. No non-water dependent uses of structures may be conducted on, in, or over public trust waters without permit modification.
- 9) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and the N.C. Department of Transportation's (NCDOT's) Memorandum of Agreement with the N.C. Division of Energy, Mineral and Land Resources.
- 10) Any utility work associated with this project that is not specifically depicted on the attached workplan drawings, or described within the attached permit application, shall require approval from DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 11) Uncured concrete shall not be allowed to contact waters of the State or water that will enter waters of the State.
- 12) The permittee and/or his contractor shall contact the DCM Transportation Field Representative in Elizabeth City at (252) 264-3901 to request a preconstruction conference prior to project initiation.

ADDITIONAL CONDITIONS

- 13) 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.
- 14) Nothing in this permit authorizes any activity which has not received approval from the National Park Service (NPS) for work within the Cape Hatteras National Seashore.

NOTE: The NPS issued a Special Use Permit # 5700-027 on July 14, 2017.

- 15) The N.C. Division of Water Resources (DWR) authorized the proposed project on 10/3/17 (DWR Project No. 20171060) under Water Quality Certification No. 4097 and under the Tar-Pamlico Buffer Rules (for the Silver Lake facility only). 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 has assigned the project Action ID No. SAW-2017-01751.

- 16) This Major Modification does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.
- 17) This Major Modification shall be attached to the original of Permit No. 224-87, which was issued on 11/20/87, as well as all subsequent modifications, renewals and letters of refinement, and copies of all documents shall be readily available on site when a Division representative inspects the project for compliance.
- 18) All conditions and stipulations of the active permit remain in force under this Major Modification unless altered herein.

NOTE: A major modification application processing fee of \$475 was received by DCM for this project. This fee also satisfied the Section 401 application processing fee requirements of the Division of Water Resources.

ARMY CORP OF ENGINEERS 291 PERMIT



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
WASHINGTON REGULATORY FIELD OFFICE
2407 W 5TH STREET
WASHINGTON, NORTH CAROLINA 27889

October 10, 2017

Regulatory Division

Action ID No. SAW-2017-01751 and State Permit No. 224-87

Mr. Clay Willis
NC Department of Transportation
113 Airport Road
Suite 100
Edenton, North Carolina 27932

Dear Mr. Willis:

Reference your application for a Department of the Army permit to install two floating passenger ferry docks, 113' in length and 27' in width, within the ferry terminals at Silver Lake on Ocracoke Island and the Hatteras Ferry Terminal on Hatteras Island.

Your proposal has been reviewed and found to be consistent with the provisions and objectives of the CAMA-Corps Programmatic Permit process for construction activities that receive authorization from the State of North Carolina. Therefore, you may commence construction activity in strict accordance with applicable State authorization and the approved plans. Failure to comply with the State authorization or conditions of the Federal permit could result in civil and/or administrative penalties.

If any change in your work is required because of unforeseen or altered conditions or for any other reason, plans revised to show the change must be sent promptly to this office and the North Carolina Division of Coastal Management prior to performing any such change or alteration. Such action is necessary as revised plans must be reviewed and the authorization modified.

Questions or comments may be addressed to Mr. Kyle Barnes, Washington Field Office, Regulatory Division, telephone (910) 251-4584.

Sincerely,

**BARNES.KYLE.WIL
LIAM.1388035397**

Digitally signed by
BARNES.KYLE.WILLIAM.1388035397
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=BARNES.KYLE.WILLIAM.1388035397
Date: 2017.10.10 15:36:08 -0400

Kyle W. Barnes
Regulatory Project Manager

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343
<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

General Permit No. 198000291
Name of Permittee: General Public
Effective Date: January 01, 2017
Expiration Date: December 31, 2021

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

A general permit to do work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby issued by authority of the Secretary of the Army by

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343

TO AUTHORIZE THOSE CONSTRUCTION ACTIVITIES IN THE 20 COASTAL COUNTIES RECEIVING PRIOR APPROVAL FROM THE STATE OF NORTH CAROLINA IN THE FORM OF A COASTAL AREA MANAGEMENT ACT (CAMA) PERMIT, AND/OR A STATE DREDGE AND FILL PERMIT, AND IF REQUIRED, A WATER QUALITY CERTIFICATION, THAT ARE OTHERWISE NOT ELIGIBLE FOR FEDERAL AUTHORIZATION IN THE FORM OF A NATIONWIDE PERMIT OR ANOTHER REGIONAL GENERAL PERMIT.

Operating Procedures

a. Applications for joint state and federal authorization under this programmatic general permit will be accepted through the North Carolina Division of Coastal Management (NCDQM). Receipt of a complete application by the NCDQM will initiate the State's field review that will include a site visit and preparation of a Field Investigation Report and a state Bio-Report. The NCDQM will forward a copy of the complete application, its Field Investigation Report and its Bio-Report, to the appropriate Corps of Engineers field office, thereby initiating federal review of

the project. The Corps, upon receipt of an application, will immediately assign an action identification number, acknowledge receipt thereof, and examine the application to assure that it can be processed pursuant to this programmatic general permit. The applicant and the NCDCM will be furnished written notification of the Corps' determination. Notification to the applicant will include a brief description of the administrative process.

b. For those proposals that may result in a discharge into waters of the United States, including wetlands, the North Carolina Division of Water Resources (NCDWR) and the applicant will be informed regarding the applicant's need to obtain a Water Quality Certification in accordance with section 401 of the Clean Water Act.

c. If, at any time, the Corps determines that a proposed activity is eligible for authorization under another regional general permit (RGP) or a nationwide permit (NWP), this procedure may be terminated and the activity authorized pursuant to the terms and conditions of the appropriate RGP or NWP.

d. The permit review process conducted by the NCDCM is a public process involving publication of public notices in local newspapers, public hearings, and various public appeal procedures. The Corps may issue a separate public notice for a specific proposal if it is deemed necessary for compliance with appropriate laws, regulation and guidance.

e. This general permit does not, in any way, alter established procedures or responsibilities, as required by federal laws, memoranda of agreements (MOA's) or administrative regulations, with respect to the Corps' coordination with appropriate review agencies. The applicant will continue to have the opportunity to rebut any objections to a proposal.

f. The Corps will provide copies of the application and plans, the NCDCM's Field Investigation Report, and the state Bio-Report, to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS) the U.S. Environmental Protection Agency (EPA), and any other federal agency that the Corps determines to be a necessary review agency (collectively, the "Federal Agencies"). Receipt of this material will initiate the Federal Agencies' review. The Federal Agencies will be allowed sufficient time, normally thirty (30) days, to provide the Corps with their comments and recommendations, including any proposed permit special conditions and recommendations of denial. The Corps may grant extensions of time for Federal Agency review if justified by unusual circumstances. If an extension is granted that would substantially delay an NCDCM decision, the application may be removed from this general permit process.

g. The Corps will receive and review all Federal Agency comments as well as any applicant rebuttal. Provided all Federal Agencies and the Corps are in agreement, the Corps will prepare a coordinated federal position incorporating all Federal Agency comments, including proposed permit special conditions and any recommendations for denial. The Corps will

typically furnish this coordinated federal position to the NCDCM within 45 days of its receipt of the complete application, and copies of the Field Investigation Report and Bio-Report.

h. If the Corps does not concur with a Federal Agency's comments or recommendations, the Corps will contact the Federal Agency and advise it of the Corps' position. Attempts to resolve the issue may include initiating the referral procedures outlined by current memoranda of agreement (MOA's) between the Department of the Army and the agency. No coordinated federal position will be furnished to the NCDCM until and unless the Corps receives written agreement from the Federal Agency that all issues have been resolved to the satisfaction of that agency.

i. If any of the recommendations and/or conditions included in the coordinated federal position are unacceptable to the NCDCM, the NCDCM will contact the Corps within ten (10) days of receipt of the coordinated federal position and attempt to resolve the conflict. If resolution of the conflict involves changes to the conditions or recommendations provided by the Federal Agencies, the provisions of paragraphs g. and h. (above) will apply. If the conflict is resolved to the satisfaction of the Corps and any affected Federal Agency, the NCDCM permit will be issued and the authority of this general permit will apply.

j. If a Federal Agency conflict is not resolved within the time necessary for a decision by the NCDCM, the NCDCM may proceed, independently, to conclude the state action without inclusion of the federal position. In such case, the applicant and the NCDCM will be notified immediately, in writing, that the state permit does not satisfy the federal permit requirements and that the proposal in question may not proceed without federal authorization.

k. If the coordinated federal position is not in conflict with state agencies' positions, law, regulation, or policy, and is acceptable to the NCDCM, a state permit will be developed by the NCDCM fully incorporating the state and federal positions. The NCDCM will furnish copies of the final permit to the applicant and the Corps. The NCDWR will furnish a copy of the Section 401 Water Quality Certification, if required, to the applicant and the Corps. The Corps will not confirm the authorization of a proposed project under this General Permit until the issuance of the NCDCM permit and, if required, the Section 401 Water Quality Certification.

l. If the NCDCM permit or Section 401 Water Quality Certification is denied, the applicant will be informed that federal authorization is denied without prejudice.

m. No work may proceed under this general permit until the Wilmington District Engineer or his representative provides written verification that the procedures and conditions of the general permit have been satisfied.

n. The NCDCM and the Corps will monitor all permitted work and periodically inspect projects for compliance with permit conditions and applicable state and federal regulations. If any violation of the NCDCM permit is discovered which would also constitute a violation of the

federal position, both the NCDCEM and the Corps, in accordance with their respective regulations and policies, may take enforcement action.

o. This general permit will not be used to authorize an activity when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and therefore require preparation of an Environmental Impact Statement (EIS).

General Conditions

a. Authorized structures located on or adjacent to Federally authorized waterways will be constructed in accordance with the latest setback criteria established by the Wilmington District Engineer. You may review the setback policy at <http://www.saw.usace.army.mil/Missions/Navigation/Setbacks.aspx>. This general permit does not authorize the construction of hardened or permanently fixed structures within the Federally Authorized Channel Setback, unless the activity is approved by the Corps. The permittee must obtain approval from the Corps prior to the construction of any structures within the Federally Authorized Channel Setback.

b. Except as authorized by this general permit or any Corps approved modification to this general permit, no excavation, fill or mechanized land-clearing activities shall take place, at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

c. Authorization under this general permit does not obviate the need to obtain other federal, state, or local authorizations.

d. All work authorized by this general permit must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Resources.

e. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

f. The activities authorized by this general permit must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by

the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for a reason other than safety.

g. 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/her 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, 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.

h. The permittee, upon receipt of a notice of revocation of the permit for the verified individual activity, may apply for an individual permit, or will, without expense to the United States and in such time and manner as the Secretary of the Army or his/her authorized representative may direct, restore the affected water of the United States to its former conditions.

i. This General Permit does not authorize any activity that would conflict with a federal project's congressionally authorized purposes, established limitations or restrictions, or limit an agency's ability to conduct necessary operation and maintenance functions. Per Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408), no project that has the potential to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, or obstruct a federally constructed work or project, including, but not limited to, levees, dams, jettys, navigation channels, borrow areas, dredged material disposal sites, flood control projects, etc., shall be permitted unless the project has been reviewed and approved by the appropriate Corps approval authority.

j. The permittee shall obtain a Consent to Cross Government Easement from the Wilmington District's Land Use Coordinator prior to any crossing of the Corps easement and/or prior to commencing construction of any structures, authorized dredging or other work within the right-of-way of, or in proximity to, a federally designated disposal area. The Land Use Coordinator may be contacted at: CESA-OP-N, 69 Darlington Avenue, Wilmington, North Carolina 28403-1343, email: SAWWeb-NAV@usace.army.mil.

k. The permittee will allow the Wilmington District Engineer or his/her representative to inspect the authorized activity at any time deemed necessary to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

l. This general permit does not grant any property rights or exclusive privileges.

m. This general permit does not authorize any injury to the property or rights of others.

n. This general permit does not authorize the interference with any existing or proposed federal project.

o. In issuing this general permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this general permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this general permit.

p. Authorization provided by this general permit may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting for the Secretary of the Army, determines that such action would be in the best public interest. The term of this general permit shall be five (5) years unless subject to modification, suspension or revocation. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the United States Government.

q. No activity may occur in a component of the National Wild and Scenic Rivers 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 designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or "study river" (e.g., National Park Service, U.S. Forest Service, etc.)

r. This general permit does not authorize any activity within, or directly affecting, a marine sanctuary established by the Secretary of Commerce under authority of Section 302 of the Marine Protection, Research and Sanctuaries Act of 1972, unless the applicant provides the Corps with a certification from the Secretary of Commerce that the proposed activity is consistent with the purposes of Title III of the Marine Protection, Research and Sanctuaries Act. Information on marine sanctuaries may be obtained at <http://sanctuaries.noaa.gov/#MN>.

Permittees may not begin work until they provide the Corps with a written certification from the Department of Commerce.

s. In cases where the Wilmington District Engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Permittees may not begin work until notified by the Corps that the requirements of the NHPA have been satisfied and that the activity is authorized.

t. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this general permit, you must immediately notify the Wilmington District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Wilmington District Engineer will initiate the Federal, tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

u. No activity is authorized under this general permit which is likely to directly or indirectly 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 directly or indirectly 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. Information on threatened and endangered species and their critical habitat can be obtained directly from the Corps field offices, the USFWS field offices or at the following web addresses: <http://www.fws.gov/> or <http://www.fws.gov/ipac/> or <http://www.noaa.gov/fisheries.html> . Permittees may not begin work until notified by the Corps that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

v. If the permittee discovers or observes any live, damaged, injured or dead individual of an endangered or threatened species during construction, the permittee shall immediately notify the Wilmington District Engineer so that required coordination can be initiated with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

w. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program that prohibits any development, including fill, within a floodway that results in any increase in base flood elevations. This general permit does not authorize any activity prohibited by the National Flood Insurance Program.

x. The permittee must install and maintain, at his/her expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact Coast Guard Sector North Carolina at (910) 772-2191 or email Coast Guard Fifth District at cgd5waterways@uscg.mil.

y. If the display of lights and signals on the authorized structure is not otherwise provided for by law, such lights and signals as may be prescribed by the U.S. Coast Guard will be installed and maintained by and at the expense of the permittee.

z. It is possible that an authorized structure may be damaged by wavewash from passing vessels. The issuance of this general permit does not relieve the permittee from taking all proper steps to ensure the integrity of the permitted structure and the safety of moored boats. The permittee will not hold the United States liable for any such damage.

aa. Structures and their attendant utilities, authorized by this general permit, located on lands subject to an easement in favor of the United States for the operation, maintenance, improvement, and enlargement of the Atlantic Intracoastal Waterway (AIWW), will be removed at the expense of the permittee, in the event that, in the judgment of the Corps acting on behalf of the United States, the lands are needed at any time for any purpose within the scope of the easement. Permanent buildings will not be constructed within the easement.

bb. The permittee must maintain any structure or work authorized by this general permit in good condition and in conformance with the terms and conditions of this general permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized by this general permit will automatically transfer this general permit to the property's new owner, with all of the rights and responsibilities enumerated herein. The permittee must inform any subsequent owner of all activities undertaken under the authority of this general permit and provide the subsequent owner with a copy of the terms and conditions of this general permit.

cc. At his/her sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific proposal. In such case, the procedures for processing an individual permit in accordance with 33 CFR 325 will be available.

dd. Except as authorized by this general permit or any Corps approved modification to this general permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities.

ee. Except as authorized by this general permit or any Corps approved modification to this general permit, all excavated material will be disposed of in approved upland disposal areas.

ff. Activities which have commenced (i.e., are under construction) or are under contract

to commence in reliance upon this general permit will remain authorized provided the activity is completed within twelve months of the date of the general permit's expiration, modification, or revocation. Activities completed under the authorization of this general permit that were in effect at the time the activity was completed continue to be authorized by the general permit

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE COMMANDER:

A handwritten signature in black ink, appearing to read "Scott McLendon". The signature is written in a cursive style with a large initial "S" and "M".

Scott McLendon
Chief, Regulatory Division
Wilmington District

DIVISION OF WATER RESOURCES 401 & BUFFER PERMIT



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

S. JAY ZIMMERMAN
Director

October 3, 2017
Dare and Hyde Counties
NCDWR Project No. 20171060
Hatteras/Ocracoke Passenger Ferry

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

Mr. Clay Willis
NCDOT, Division 1
113 Airport Drive, Suite 100
Edenton, NC 27932

Dear Mr. Willis:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of installing passenger ferry service between Hatteras and Ocracoke on US 264 in Dare and Hyde Counties:

Riparian Buffer Impacts in the Tar-Pamlico Basin

Site	Buffers Zone 1 (sq ft)	Buffers Zone 2 (sq ft)
Silver Lake	325	0
Total	325	

The project shall be constructed in accordance with your application dated received August 14, 2017 and CAMA Major application received September 7, 2017. After reviewing your application, we have decided that these impacts are covered by Water Quality General Certification Number 4097. This certification corresponds to the Regional General Permit Number 198000291 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 NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). Additional buffer impacts may require compensatory mitigation as described in 15A NCAC 2B.0259. 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:

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. 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. 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]
5. 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)]
6. 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)]
7. 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.
8. 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)]
9. Erosion control matting in riparian areas shall not contain a nylon mesh grid which can impinge and entrap small animals. Matting should be secured in place by staples, stakes, or wherever possible live stakes of native trees. Riparian areas are defined as a distance 25 feet from top of stream bank. [15A NCAC 02B.0224, .0225]
10. 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)]
11. A turbidity curtain will be installed if driving or drilling activities occur within the channel, on the bank, or within 5 feet of the top of bank. This condition can be waived with prior approval from the NCDWR. [15A NCAC 02H .0506(b)(3)]
12. 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)]
13. All stormwater runoff shall be directed as sheetflow through stream buffers at non-erosive velocities, unless otherwise approved by this certification. (15A NCAC 2B.0259)

14. 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. (15A NCAC 2B.0233)
15. Native riparian vegetation must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction. [15A NCAC 02B.0506(b)(2)]
16. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited. [15A NCAC 02H.0506(b)(3)]
17. 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]
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 Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]
20. 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)]

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:

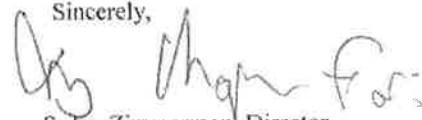
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919) 431-3000, Facsimile: (919) 431-3100

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

Mr. Bill F. Lane, 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)946-6481 or garcy.ward@ncdenr.gov.

Sincerely,



S. Jay Zimmerman, Director
Division of Water Resources

Electronic copy only distribution:

Kyle Barnes, US Army Corps of Engineers, Washington Field Office
Clay Willis, Division 1 Environmental Officer
Greg Daisey, NC Division of Coastal Management
Cathy Brittingham, NC Division of Coastal Management
Garcy Ward, NC Division of Water Resources Washington Regional Office
File Copy



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

S. JAY ZIMMERMAN
Director

NCDWR Project No.: _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion

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

Applicant's Certification

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

Signature: _____ Date: _____

Agent's Certification

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

Signature: _____ Date: _____

Engineer's Certification

_____ Partial _____ Final

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

Signature _____ Registration No. _____

Date _____

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER RESOURCES

WATER QUALITY GENERAL CERTIFICATION NO. 4097

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR US ARMY CORPS OF ENGINEERS

- REGIONAL GENERAL PERMIT NUMBER 198000291 (NC COASTAL AREA MANAGEMENT ACT) AND
- WHEN APPLIED TO CAMA PERMITS, REGIONAL GENERAL PERMIT NUMBERS 198000048, 198700056, 197800080, 197800125 AND 198200277 AND NATIONWIDE PERMIT NUMBERS 3, 12, 13, 14, 18, 27, 29, 33, 35, 39, AND 54

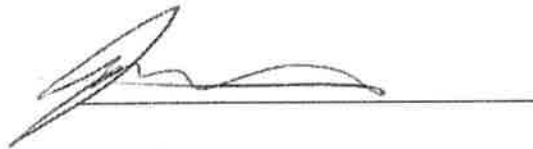
Water Quality Certification Number 4097 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Regulations in 15A NCAC 02H .0500 and 15A NCAC 02B .0200 for the discharge of fill material to surface waters and wetland areas as described in Regional General Permits 198000291, 198000048, 198700056, 197800080, 197800125, and 198200277 and in 33 CFR 300 Appendix A (B) (3, 12, 13, 14, 18, 27, 29, 33, 35, 39, and 54) of the US Army Corps of Engineers Regulations.

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.

Effective date: March 19, 2017

Signed this day March 6, 2017

By

A handwritten signature in black ink, appearing to read 'S. Jay Zimmerman', is written over a horizontal line.

for S. Jay Zimmerman, P.G.
Director

GC4097

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 Resources (DWR):

- a) If any of the Conditions of this Certification (listed below) cannot be met; or
- b) Activities authorized by CAMA permits, except for:
 - i) Activities authorized by CAMA General Permits 1100, 1200, 1300, 1400, 1500, 1600, 1700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500 and 2600;
 - ii) Boat Ramps and associated access (i.e. roads and parking lots) that involve the excavation or filling of less than 500 square feet total of wetland and open water area, with the exception that the excavation or filling of coastal wetlands (as defined in 15A NCAC 07H .0205) shall not exceed 100 square feet;
 - iii) Shoreline protection measures (excluding living shorelines/marsh sills) that tie into existing bulkheads, land or other shoreline protection measures or do not extend waterward of the normal high water line or normal water level more than 30 feet provided that the activity will not involve the excavation or filling of any Submerged Aquatic Vegetation (SAV) or significant shellfish resources as identified by the Division of Marine Fisheries and impacts less than 500 square feet total of wetland, with the exception that the excavation or filling of coastal wetlands (as defined in 15A NCAC 07H .0205) shall not exceed 100 square feet;
 - iv) Living shorelines/marsh sills, including activities authorized by CAMA General Permit 2700, that do not extend waterward of the normal high water line or normal water level more than 30 feet, the activity will not involve the excavation or fill of any Submerged Aquatic Vegetation (SAV) or significant shellfish resources, as identified by the Division of Marine Fisheries, and do not result in any fill landward of the toe of the sill alignment;
 - v) Piers and docks designed to accommodate up to but not exceeding 10 vessels (except where prohibited in Outstanding Resource Waters (ORW) as defined in 15A NCAC 02B.0225(7) & (8)) and where the water depth is equal to or greater than two feet of water at normal low water level or normal water level (whichever is applicable);
 - vi) Maintenance dredging of less than 0.5 acres of open water or non-vegetated wetlands provided that the applicant can provide documentation showing the historic dimensions of the dredged channel, and no SAV or shellfish beds are excavated or filled;
 - vii) Projects that involve only shading of waters or wetlands that do not meet the criteria listed in item v above;
 - viii) Utility lines, except wastewater lines and potable water discharge lines which are subject to an NPDES Permit, as long as all impacts are temporary;
 - ix) Upland development which involves no more than 1/10 of an acre of excavation or filling of non-coastal wetlands, with the exception than no more than 2,000 square feet of the non-coastal excavation or filling may take place within a Coastal Shoreline Area of Environmental Concern (AEC). For the purposes of this area calculation, the excavation or filling impacts of the entire project shall be

GC4097

- considered, which may include boat ramps, bulkheads or other shoreline stabilization measures; and
- x) Single family home construction that results in fill of 404 jurisdictional wetlands as long as written concurrence is not required from DWR for the applicable US Army Corps of Engineers Nationwide Permit;
 - c) Any stream relocation or stream restoration; or
 - d) Any impacts except shading to SAV or significant shellfish resources as identified by the Division of Marine Fisheries; or
 - e) Any impacts Unique Wetlands (UWL); or
 - f) Any impact associated with a Notice of Violation or an enforcement action for violation(s) of NC Wetland Rules (15A NCAC 02H .0500), NC Isolated Wetland Rules (15A NCAC 02H .1300), NC Surface Water or Wetland Standards (15A NCAC 02B .0200), or State Regulated Riparian Buffer Rules (15A NCAC 02B .0200); or
 - g) Any impacts to subject water bodies and/or state regulated riparian buffers along subject water bodies in the Neuse or Tar-Pamlico River Basins (or any other basin or watershed with State Regulated Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) *unless*:
 - i) The activities are listed as "EXEMPT" from these rules; or
 - ii) A Buffer Authorization Certificate is issued by the NC Division of Coastal Management (DCM); or
 - iii) A Buffer Authorization Certificate or a Minor Variance is issued by a delegated or designated local government implementing a state riparian buffer program pursuant to 143-215.23.

Activities included in this General Certification that do not meet one of the thresholds listed above do not require written approval.

I. ACTIVITY SPECIFIC CONDITIONS:

1. Dredging shall not cause Shellfish Closures. The effluent water from the dredge spoil should not be released into open shellfish waters. Shellfish Sanitation and the Division of Water Resources shall be notified if this is to occur. [15A NCAC 02B .0221]
2. If this Water Quality Certification is used to access residential, commercial or industrial building sites, then all parcels owned by the applicant that are part of the single and complete project authorized by this Certification must be buildable without additional impacts to streams or wetlands. If required in writing by DWR, the applicant shall provide evidence that the parcels are buildable without requiring additional impacts to wetlands, waters, or state regulated riparian buffers. [15A NCAC 02H .0506(b)(4) and (c)(4)]
3. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground. [15A NCAC 02H .0506(b)(2) and (c)(2)]

GC4097

4. Deed notifications or similar mechanisms shall be placed on all lots with retained jurisdictional wetlands, waters, and state regulated riparian buffers within the project boundaries in order to assure compliance with NC Wetland Rules (15A NCAC 02H .0500), NC Isolated Wetland Rules (15A NCAC 02H .1300), and/or State Regulated Riparian Buffer Rules (15A NCAC 02B .0200). These mechanisms shall be put in place at the time of recording of the property or individual parcels, whichever is appropriate. [15A NCAC 02H .0506(b)(4) and (c)(4)]
5. For living shorelines, the sills shall have at least one five-foot opening every 100 feet and may be staggered or overlapped or left open as long as the five-foot separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet. [15A NCAC 02H .0506(b)(4) and (c)(4)]
6. For living shorelines, the permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation and turbidity within waters and wetlands outside the permitted area. This shall include, but is not limited to, the immediate installation of silt fencing, turbidity curtains or similar appropriate devices around all areas subject to soil disturbance. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act and the Mining Act of 1971. [15A NCAC 02H .0506(b)(4) and (c)(4)]
7. Living shorelines in Primary Nursery Areas (as designated by the NC Marine Fisheries Commission) shall be coordinated with the appropriate NC Wildlife Resources Commission (WRC), National Marine Fisheries Service (NMFS) and NC Division of Marine Fisheries (DMF) personnel. [15A NCAC 02B .0221]
8. For the North Carolina Department of Transportation, compliance with the NCDOT's individual NPDES permit NCS000250 shall serve to satisfy this condition. For all other projects that disturb one acre or more of land (including a project that disturbs less than one acre of land that is part of a larger common plan of development or sale); have permanent wetland, stream, or open water impacts; and are proposing new built-upon area shall comply with the following requirements: [15A NCAC 02H .0506(b)(5) and (c)(5)]
 - a. Stormwater management shall be provided throughout the entire project area in accordance with 15A NCAC 02H .1003. For the purposes of 15A NCAC 02H .1003(2)(a), density thresholds shall be determined in accordance with 15A NCAC 02H .1017.
 - b. Projects that have vested rights, exemptions, or grandfathering from state or locally-implemented stormwater programs do not satisfy this condition. Projects that satisfy state or locally-implemented stormwater programs through use of community in-lieu programs do not satisfy this condition.
 - c. Projects that require written authorization from DWR shall submit the following with their application for review and approval:

GC4097

- i. For projects that have a stormwater management plan (SMP) reviewed under a state stormwater program¹ or a state-approved local government stormwater program² shall submit plans that show the location and approximate size of all proposed stormwater measures;
 - ii. All other low density projects not covered above shall submit a completed low density supplement form with all required items; and
 - iii. All other high density projects not covered above shall submit a completed SMP, including all appropriate stormwater control measure (SCM) supplemental forms and associated items, that complies with the high density development requirements of 15A NCAC 02H .1003.
- d. Projects that do not require written approval from DWR shall obtain approval of the SMP, when required, before any impacts authorized by this Certification occur.
- e. SMPs approved by DWR may be phased on a case-by-case basis. SMPs for each future phase must be approved before construction of that phase commences. Approved SMPs may not be modified without prior written authorization from DWR.

II. GENERAL CONDITIONS:

1. When written authorization is required, the plans and specifications for the project are incorporated into the authorization by reference and are an enforceable part of the Certification. Any modifications to the project require notification to DWR and may require an application submittal to DWR with the appropriate fee. [15A NCAC 02H .0501 and .0502]
2. No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the impacts (including temporary impacts) as authorized in the written approval from DWR; or beyond the thresholds established for use of this Certification without written authorization. [15A NCAC 02H .0501 and .0502]

No removal of vegetation or other impacts of any kind shall occur to state regulated riparian buffers beyond the footprint of impacts approved in a Buffer Authorization or Variance or as listed as an exempt activity in the applicable riparian buffer rules. [15A NCAC 02B .0200]

3. In accordance with 15A NCAC 02H .0506(h), compensatory mitigation may be required for losses of greater than 150 linear feet of streams and/or greater than one (1) acre of wetlands. Impacts to isolated and other non-404 jurisdictional wetlands shall not be combined with 404 jurisdictional wetlands for the purpose of determining when impact thresholds trigger a mitigation requirement. For linear publicly owned and maintained transportation projects that are not determined to be part of a larger common plan of

¹ e.g. Coastal Counties, HQW, ORW, or state-implemented Phase II NPDES

² e.g. Delegated Phase II NPDES, Water Supply Watershed, Nutrient-Sensitive Waters, or Universal Stormwater Management Program

GC4097

development by the US Army Corps of Engineers, compensatory mitigation may be required for losses of greater than 150 linear feet per stream.

Compensatory stream and/or wetland mitigation shall be proposed and completed in compliance with G.S. 143-214.11. For applicants proposing to conduct mitigation within a project site, a complete mitigation proposal developed in accordance with the most recent guidance issued by the US Army Corps of Engineers Wilmington District shall be submitted for review and approval with the application for impacts.

4. All activities shall be in compliance with any applicable State Regulated Riparian Buffer Rules in Chapter 2 of Title 15A.
5. When applicable, all construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973). Regardless of applicability of the Sediment and Pollution Control Act, all projects shall incorporate appropriate Best Management Practices for the control of sediment and erosion so that no violations of state water quality standards, statutes, or rules occur. [15A NCAC 02H .0506(b)(3) and (c)(3) and 15A NCAC 02B .0200]

Design, installation, operation, and maintenance of all sediment and erosion control measures shall be equal to or exceed the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*, or for linear transportation projects, the *NCDOT Sediment and Erosion Control Manual*.

All devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) sites, including contractor-owned or leased borrow pits associated with the project. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

For borrow pit sites, the erosion and sediment control measures shall be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*. Reclamation measures and implementation shall comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.

If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), SA, WS-I, WS-II, High Quality Waters (HQW), or Outstanding Resource Waters (ORW), then the sedimentation and erosion control designs shall comply with the requirements set forth in 15A NCAC 04B .0124, *Design Standards in Sensitive Watersheds*.

6. Sediment and erosion control measures shall not be placed in wetlands or waters except within the footprint of temporary or permanent impacts authorized under this Certification. Exceptions to this condition require application to and written approval from DWR. [15A NCAC 02H .0501 and .0502]

GC4097

7. Erosion control matting that incorporates plastic mesh and/or plastic twine shall not be used along streambanks or within wetlands. Exceptions to this condition require application to and written approval from DWR. [15A NCAC 02B .0201]
8. An NPDES Construction Stormwater Permit (NCG010000) is required for construction projects that disturb one (1) or more acres of land. The NCG010000 Permit allows stormwater to be discharged during land disturbing construction activities as stipulated in the conditions of the permit. If the project is covered by this permit, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required. [15A NCAC 02H .0506(b)(5) and (c)(5)]

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. [15A NCAC 02H .0506(b)(5) and (c)(5)]

9. All work in or adjacent to streams shall be conducted so that the flowing stream does not come in contact with the disturbed 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 application to and written approval from DWR. [15A NCAC 02H .0506(b)(3) and (c)(3)]
10. If activities must occur during periods of high biological activity (e.g. sea turtle nesting, fish spawning, or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. [15A NCAC 02H .0506(b)(2) and 15A NCAC 04B .0125]

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) shall be implemented. Exceptions to this condition require written approval by the resource agency responsible for the given moratorium. A copy of the approval from the resource agency shall be forwarded to DWR.

Work within a designated trout watershed of North Carolina (as identified by the Wilmington District of the US Army Corps of Engineers), or identified state or federal endangered or threatened species habitat, shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

11. Culverts 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. The dimension, pattern, and profile of the stream above and below a pipe or culvert shall 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 culvert shall be such as

GC4097

to pass the average historical low flow and spring flow without adversely altering flow velocity. [15A NCAC 02H .0506(b)(2) and (c)(2)]

Placement of culverts and other structures in streams shall be below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20% of the culvert diameter for culverts having a diameter less than or equal to 48 inches, to allow low flow passage of water and aquatic life.

If multiple pipes or barrels are required, they shall be designed to mimic the existing stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream channel shall be avoided.

When topographic constraints indicate culvert slopes of greater than 5%, culvert burial is not required, provided that all alternative options for flattening the slope have been investigated and aquatic life movement/connectivity has been provided when possible (e.g. rock ladders, cross vanes, etc.). Notification, including supporting documentation to include a location map of the culvert, culvert profile drawings, and slope calculations, shall be provided to DWR 60 calendar days prior to the installation of the culvert.

When bedrock is present in culvert locations, culvert burial is not required provided that there is sufficient documentation of the presence of bedrock. Notification, including supporting documentation such as, a location map of the culvert, geotechnical reports, photographs, etc. shall be provided to DWR a minimum of 60 calendar days prior to the installation of the culvert. If bedrock is discovered during construction, then DWR shall be notified by phone or email within 24 hours of discovery.

If other site-specific topographic constraints preclude the ability to bury the culverts as described above and/or it can be demonstrated that burying the culvert would result in destabilization of the channel, then exceptions to this condition require application to and written approval from DWR.

Installation of culverts in wetlands shall ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. When roadways, causeways, or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges shall 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.

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

GC4097

12. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means to the maximum extent practicable (e.g. grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. -Exceptions to this condition require application to and written approval from DWR. [15A NCAC 02H .0506(b)(5)]
13. Application of fertilizer to establish planted/seeded vegetation within disturbed riparian areas and/or wetlands shall be conducted at agronomic rates and shall comply with all other Federal, State and Local regulations. Fertilizer application shall be accomplished in a manner that minimizes the risk of contact between the fertilizer and surface waters. [15A NCAC 02B .0200 and 15A NCAC 02B .0231]
14. If concrete is used during construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state. [15A NCAC 02B .0200]
15. All proposed and approved temporary fill and culverts shall be removed and the impacted area shall be returned to natural conditions within 60 calendar days after the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross sectional dimensions, planform pattern, and longitudinal bed profile. For projects that receive written approval, no temporary impacts are allowed beyond those included in the application and authorization. All temporarily impacted sites shall be restored and stabilized with native vegetation. [15A NCAC 02H .0506(b)(2) and (c)(2)]
16. All proposed and approved temporary pipes/culverts/rip-rap pads etc. in streams shall be installed as outlined in the most recent edition of the *North Carolina Sediment and Erosion Control Planning and Design Manual* or the *North Carolina Surface Mining Manual* or the *North Carolina Department of Transportation Best Management Practices for Construction and Maintenance Activities* so as not to restrict stream flow or cause dis-equilibrium during use of this Certification. [15A NCAC 02H .0506(b)(2) and (c)(2)]
17. Any rip-rap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All rip-rap shall be placed such that the original stream elevation and streambank contours are restored and maintained. Placement of rip-rap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area or in a manner that precludes aquatic life passage. [15A NCAC 02H .0506(b)(2)]
18. Any rip-rap used for stream or shoreline stabilization shall be of a size and density to prevent movement by wave, current action, or stream flows and shall 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. [15A NCAC 02H .0506(b)(2)]

GC4097

19. Applications for rip-rap groins proposed in accordance with 15A NCAC 07H .1401 (NC Division of Coastal Management General Permit for construction of Wooden and Rip-rap Groins in Estuarine and Public Trust Waters) shall meet all the specific conditions for design and construction specified in 15A NCAC 07H .1405.
20. All mechanized equipment operated near surface waters shall be inspected and maintained regularly to prevent contamination of surface waters from fuels, lubricants, hydraulic fluids, or other toxic materials. Construction shall be staged in order to minimize the exposure of equipment to surface waters to the maximum extent practicable. Fueling, lubrication and general equipment maintenance shall not take place within 50 feet of a waterbody or wetlands to prevent contamination by fuels and oils. [15A NCAC 02H .0506(b)(3) and (c)(3) and 15A NCAC 02B .0211 (12)]
21. Heavy equipment working in wetlands shall be placed on mats or other measures shall be taken to minimize soil disturbance. [15A NCAC 02H .0506(b)(3) and (c)(3)]
22. In accordance with 143-215.85(b), the applicant shall report any petroleum spill of 25 gallons or more; any spill regardless of amount that causes a sheen on surface waters; any petroleum spill regardless of amount occurring within 100 feet of surface waters; and any petroleum spill less than 25 gallons that cannot be cleaned up within 24 hours.
23. If an environmental document is required under the State Environmental Policy Act (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. If an environmental document is required under the National Environmental Policy Act (NEPA), then this General Certification is not valid until a Categorical Exclusion, the Final Environmental Assessment, or Final Environmental Impact Statement is published by the lead agency [15A NCAC 01C .0107(a)]
24. This General Certification does not relieve the applicant of the responsibility to obtain all other required Federal, State, or Local approvals before proceeding with the project, including those required by, but not limited to Sediment and Erosion Control, Non-Discharge, Water Supply Watershed, and Trout Buffer regulations.
25. The applicant 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 DWR 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 DWR may revoke or modify a written authorization associated with this General Water Quality Certification. [15A NCAC 02H .0507(d)]

GC4097

26. 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 a certificate of completion (available on the DWR website <https://edocs.deq.nc.gov/Forms/Certificate-of-Completion>). [15A NCAC 02H .0502(f)]
27. Additional site-specific conditions, including monitoring and/or modeling requirements, may be added to the written approval letter for projects proposed under this Water Quality Certification in order to ensure compliance with all applicable water quality and effluent standards. [15A NCAC 02H .0507(c)]
28. If the property or project is sold or transferred, the new Permittee shall be given a copy of this Certification (and written authorization if applicable) and is responsible for complying with all conditions. [15A NCAC 02H .0501 and .0502]

III. GENERAL CERTIFICATION ADMINISTRATION:

1. In accordance with North Carolina General Statute 143-215.3D(e), written approval for a 401 Water Quality General Certification must include the appropriate fee. An applicant for a CAMA permit under Article 7 of Chapter 113A of the General Statutes for which a Water Quality Certification is required shall only make one payment to satisfy both agencies; the fee shall be as established by the Secretary in accordance with 143-215.3D(e)(7).
2. This Certification neither grants nor affirms any property right, license, or privilege in any waters, or any right of use in any waters. This Certification does not authorize any person to interfere with the riparian rights, littoral rights, or water use rights of any other person and this Certification does not create any prescriptive right or any right of priority regarding any usage of water. This Certification shall not be interposed as a defense in any action respecting the determination of riparian or littoral rights or other rights to water use. No consumptive user is deemed by virtue of this Certification to possess any prescriptive or other right of priority with respect to any other consumptive user regardless of the quantity of the withdrawal or the date on which the withdrawal was initiated or expanded.
3. This Certification grants permission to the Director, an authorized representative of the Director, or DWR staff, upon the presentation of proper credentials, to enter the property during normal business hours. [15A NCAC 02H .0502(e)]
4. This General Certification shall expire on the same day as the expiration date of the corresponding Nationwide Permit and/or Regional General 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. This General Certification is rescinded when the US Army Corps of Engineers reauthorizes any of the corresponding Nationwide Permits and/or Regional General Permits or when deemed appropriate by the Director of the Division of Water Resources.

GC4097

5. Non-compliance with or violation of the conditions herein set forth by a specific project may result in revocation of this General Certification for the project and may also result in criminal and/or civil penalties.
6. The Director of the North Carolina Division of Water Resources 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 water or downstream waters are precluded.
7. Public hearings may be held prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Resources.

History Note: Water Quality Certification (WQC) Number 4097 issued March 6, 2017 replaces WQC Number 3900 issued March 19, 2012; WQC Number 3641 and 3642 issued March 19, 2007; WQC Numbers 3371 and 3400 issued March 18, 2002; WQC Number 3274 issued June 1, 2000; WQC Number 3112 issued February 11, 1997; and WQC Number 3025 issued September 6, 1995.