



North Carolina Department of Environment and Natural Resources

Division of Water Quality  
Charles Wakild, P.E.  
Director

Beverly Eaves Perdue  
Governor

Dee Freeman  
Secretary

November 19, 2012  
Watauga County  
NCDWQ Project No. 20121050  
SR 1128C  
State Project No. 11C.095094

**APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS**

Mr. Heath Slaughter, Division Environmental Officer  
NCDOT, Division 11  
PO Box 250  
North Wilkesboro, NC 28659

Dear Mr. Slaughter:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of paving SR 1128C (Andy Hicks Road) in Watauga County:

**Stream Impacts in the Watauga River Basin**

Site no. (Sta. No.)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
1 (88+00)	30 (20 pipe, 10 rip rap)	40	70	0
2 (91+90)	30 (20 pipe, 10 rip rap)	40	70	0
<b>Total</b>	<b>60 (40 pipe, 20 rip rap)</b>	<b>80</b>	<b>140</b>	<b>0</b>

**Total Stream Impact for Project: 140 linear feet.**

The project shall be constructed in accordance with your application dated received November 14, 2012. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3886. This certification corresponds to the Nationwide Permit 14 issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the NCDWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet,

North Carolina Division of Water Quality, Winston-Salem Regional Office  
Location: 585 Waughtown St. Winston-Salem, North Carolina 27107  
Phone: 336-771-5000 | FAX: 336-771-4630  
Internet: www.ncwaterquality.org

An Equal Opportunity | Affirmative Action Employer



compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

**Condition(s) of Certification:**

1. This project has the potential to impact trout waters or other aquatic species of concern. No construction activities shall begin until the North Carolina Wildlife Resource Commission (NCWRC) makes a determination regarding moratoria. Should the NCWRC determine that a moratorium is applicable, then the requirements of any moratorium shall be a condition of this 401 certification. If DOT does not wish to honor the moratorium, then a written modification shall be requested.
2. For projects impacting waters classified by the NC Environmental Management Commission as Trout (Tr), High Quality Waters (HQW-ORWs are a subset of HQW), or Water Supply I or II (WSI, WSII) stormwater shall be directed to vegetated buffer areas, grass-lined ditches or other means appropriate to the site for the purpose of pre-treating storm water runoff prior to discharging directly into streams. Mowing of existing vegetated buffers is strongly discouraged.
3. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
4. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
5. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
6. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.
7. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.
8. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
9. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
10. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
11. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
12. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
13. 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.
14. 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.
15. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through

Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

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

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone: (919)-733-2698, Facsimile: (919)-733-3478

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

Ms. Mary Penny Thompson, General Counsel  
Department of Environment and Natural Resources  
1601 Mail Service Center  
Raleigh, NC 27699-1601

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please contact Amy Euliss at (336) 771-4959.

Sincerely,



 Charles Wakild  
Director

Attachments [General Certification (permittee only) and Certificate of Completion form]

Cc: Monte Matthews, US Army Corps of Engineers, Raleigh Field Office (electronic copy only)  
Marla Chambers, NC Wildlife Resources Commission (electronic copy only)  
Wetlands/401 Transportation Permitting Unit (electronic copy only)  
File Copy



North Carolina Department of Environment and Natural Resources

Division of Water Quality
Charles Wakild, P.E
Director

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

NCDWQ 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 Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to NCDWQ 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 \_\_\_\_\_

North Carolina Division of Water Quality, Winston-Salem Regional Office
Location: 585 Waughtown St. Winston-Salem, North Carolina 27107
Phone: 336-771-5000 FAX: 336-771-4630
Internet: www.ncwaterquality.org

An Equal Opportunity / Affirmative Action Employer





STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION


BEVERLY EAVES PERDUE  
GOVERNOR

EUGENE A. CONTI, JR.  
SECRETARY

September 11th, 2012

**WATAUGA COUNTY**

**MEMORANDUM TO:** Heath Slaughter  
Division Environmental Officer

**FROM:** Ivan Dishman   
District Engineer

**SUBJECT:** Permit for SR-1128C (Andy Hicks)  
Project No. 11C.095094

We are proposing to widen SR-1128C (Andy Hicks) in Watauga County when the necessary permits are obtained.

This project will require Replacing Four (4) wet crossline at the following station: 71+90 (18"X30' to 24"X50' CMP), 79+75 (18"x30' to 24"x50'), 88+00 (24"x30' to 36"x50' CMP), 91+90 (24"x30' to 36"x60' CMP) ( Any pipes requiring headwalls will require de-watering in order to construct the headwalls in the dry.

Unnamed Tributary to Laurel Creek is within the Watauga River Basin and is classified as Class "C" - Trout. We are requesting the necessary permits to proceed with this work.

I am sending a Minimum Criteria Checklist, a E&SC Plan with proposed erosion control, roadway typical sections, cross-section info, notes on pipe installation, general notes on erosion control, topo map, and a marked county map.

Should you have any questions on this information please give Greg Kirby or myself a call. Your assistance in this matter would be appreciated.

IHD:gk  
Cc: File  
Heath Slaughter

## MINIMUM CRITERIA DETERMINATION CHECKLIST

The following questions provide direction in determining when the Department is required to prepare environmental documents for state-funded construction and maintenance activities. Answer questions for Parts A through C by checking either "Yes" or "No". Complete Part D of the checklist when Minimum Criteria Rule categories #8, #12(i) or #15 are used.

**TIP Project No.:** NA

**State Project No.:** 11C.095094

**Project Location:** SR-1128C (Andy Hicks Rd.) in Watauga County. Project begins at a point 3707' north of intersection with SR-1130(Worley Rd.) and continues south to intersection with SR 1130(Worley Rd.)

---

---

**Project Description:** Grade, Drain, Base and Pave

---

---

---

---

**Anticipated Permit or Consultation Requirements:** \_\_\_\_\_

---

---

**Special Project Information:**

Replacing Four (4) wet crossline at the following station: 71+90 (18"x30' to 24"x50' CMP), 79+75 (18"x30' to 24"x50' CMP), 88+00 (24"x30' to 36"x50' CMP), 91+90 (24"x30' to 36"x50' CMP)

---

---

---

**PART A: MINIMUM CRITERIA**

YES NO

**Item 1 to be completed by the Engineer.**

1. Is the proposed project listed as a type and class of activity allowed under the Minimum Criteria Rule in which environmental documentation is not required?

If the answer to number 1 is "no", then the project does not qualify as a minimum criteria project. A state environmental assessment is required.

If yes, under which category? #12(I)

If either category #8, #12(i) or #15 is used, complete Part D of this checklist.

**PART B: MINIMUM CRITERIA EXCEPTIONS**

**Items 2-4 to be completed by the Engineer.**

2. Could the proposed activity cause significant changes in land use concentrations that would be expected to create adverse air quality impacts?
3. Will the proposed activity have secondary impacts or cumulative impacts that may result in a significant adverse impact to human health or the environment?
4. Is the proposed activity of such an unusual nature or does the proposed activity have such widespread implications, that an uncommon concern for its environmental effects has been expressed to the Department?

**Items 5-8 to be completed by Division Environmental Officer.**

5. Does the proposed activity have a significant adverse effect on wetlands; surface waters such as rivers, streams, and estuaries; parklands; prime or unique agricultural lands; or areas of recognized scenic, recreational, archaeological, or historical value?
6. Will the proposed activity endanger the existence of a species on the Department of Interior's threatened and endangered species list?
7. Could the proposed activity cause significant changes in land use concentrations that would be expected to create adverse water quality or ground water impacts?

- |   |                          |                          |
|---|--------------------------|--------------------------|
|   | YES                      | NO                       |
| 8. Is the proposed activity expected to have a significant adverse effect on long-term recreational benefits or shellfish, finfish, wildlife, or their natural habitats | <input type="checkbox"/> | <input type="checkbox"/> |

If any questions 2 through 8 are answered "yes", the proposed project may not qualify as a Minimum Criteria project. A state environmental assessment (EA) may be required. For assistance, contact:

Manager, Project Development and Environmental Analysis Branch  
P. O. Box 25201  
Raleigh, NC 27611  
(919) 733 -3141  
Fax: (919) 733-9794

**PART C: COMPLIANCE WITH STATE AND FEDERAL REGULATIONS**

- |  |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|
| <b><u>Items 9, 12 to be completed by Division Environmental Officer</u></b>  |                          | YES                      | NO                       |
| 9. Is a federally protected threatened or endangered species, or its habitat, likely to be impacted by the proposed action?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Does the action require the placement of temporary or permanent fill in waters of the United States?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Does the project require the placement of a significant amount of fill in high quality or relatively rare wetland ecosystems, such as mountain bogs or pine savannahs? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Is the proposed action located in an Area of Environmental Concern, as defined in the coastal Area Management Act?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

- |  |                          |                          |                                     |
|--|--------------------------|--------------------------|-------------------------------------|
| <b><u>Items 13, 14 to be completed by the Engineer</u></b>         |                          | YES                      | NO                                  |
| 13. Does the project require stream relocation or channel changes? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Cultural Resources

- |   |                          |                                     |
|---|--------------------------|-------------------------------------|
| 13. Will the project have an "effect" on a property or site listed on the National Register of Historic Places?                 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 14. Will the proposed action require acquisition of additional right of way from publicly owned parkland or recreational areas? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Questions in Part "C" are designed to assist the Engineer and the Division Environmental Officer in determining whether a permit or consultation with a state or federal resource agency may be required. If any questions in Part "C" are answered "yes", follow the appropriate permitting procedures prior to beginning project construction.



**PART D: ( To be completed when either category #8, #12(i) or #15 of the rules are used.)**

**Items 15- 20 to be completed by Division Environmental Officer:**

15. Project length: 0.70 miles
16. Right of Way width: 50
17. Project completion date: December 31, 2013
18. Total acres of newly disturbed ground surface: 3.16 Acres
19. Total acres of wetland impacts: 0
20. Total linear feet of stream impacts: \_\_\_\_\_
21. Project purpose: Improve unpaved road

If Part D of the checklist is completed, send a copy of the entire checklist document to:

Don G. Lee  
State Roadside Environmental Engineer  
Mail Service Center 1557  
Raleigh, NC 27699-1557  
(919) 733-2920  
Fax (919) 733-9810  
Email: dlee@dot.state.nc.us

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
                  Lead Engineer

                  \_\_\_\_\_ Date: \_\_\_\_\_  
                  Division Environmental Officer

cc: Don Lee