



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.
GOVERNOR

P.O. BOX 25201, RALEIGH, N.C. 27611-5201

E. NORRIS TOLSON
SECRETARY

December 9, 1998

MEMORANDUM TO: Mr. R. W. Spangler, P.E.
Division 12 Engineer

FROM: V. Charles Bruton, Ph.D. *Ben Bruton*
Assistant Manager, Environmental Services
Planning and Environmental Branch

SUBJECT: Catawba County, Replace Bridge No. 152 over Balls Creek and
Approaches on SR 1003; State Project No. 8.2790801; T.I.P. # B-2119

Attached are the renewed U. S. Army Corps of Engineers Nationwide Permit No. 23 (Approved Categorical Exclusion) tear sheet and the general conditions for the Division of Water Quality 401 Certification for the above referenced project. All environmental permits have been received for this project.

VCB/eah

Attachment

cc: Mr. G. T. Shearin, P.E.
Mr. Whit Webb, P.E.
Mr. A. L. Hankins, P.E.
Mr. Victor Barbour, P.E.
Mr. William Rogers, P.E.
Mr. W. D. Johnson
Mr. R. L. Hill, P.E. (cover only)
Mr. Gary Jessup (cover only)



4 A

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

Action Id. 199830751

County Catawba

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

Property owner North Carolina Department of Transportation

Address Planning and Environmental Branch, Attn: William D. Gilmore, P.E., Post Office Box 25201, Raleigh, North Carolina 27611-5201

Telephone No. (919) 733-7844

Size and Location of project (water body, road name/number, town, etc.) Replacement of Bridge No. 152 over Balls Creek on SR 1003 near Newton, Catawba County, North Carolina (TIP No. B-2119)

Description of Activity Replace Bridge No. 152 with a new bridge at the existing location. Traffic will be detoured to existing secondary roads during construction.

Applicable Law: Section 404 (Clean Water Act, 33 U.S.C.1344).

(check all that apply) Section 10 (River and Harbor Act of 1899).

Authorization: _____ Regional General Permit Number.

23 (renewal) Nationwide Permit Number.

Your work is authorized by this Regional General (RGP) or Nationwide Permit (NWP) provided it is accomplished in strict accordance with the attached conditions and your submitted plans. If your activity is subject to Section 404 (if Section 404 block above is checked), before beginning work you must also receive a Section 401 water quality certification from the N.C. Division of Environmental Management, telephone (919) 733-1786. For any activity within the twenty coastal counties, before beginning work you must contact the N.C. Division of Coastal Management, telephone (919)733-2293.

Please read and carefully comply with the attached conditions of the RGP or NWP. Any violation of the conditions of the RGP or the NWP referenced above may subject the permittee to a stop work order, a restoration order, and/or appropriate legal action.

This Department of the Army RGP or NWP verification does not relieve the permittee of the responsibility to obtain any other required Federal, State, or local approvals/permits. The permittee may need to contact appropriate State and local agencies before beginning work.

If there are any questions regarding this authorization or any of the conditions of the General Permit or Nationwide Permit, please contact the Corps Regulatory Official specified below.

Date July 30, 1998

Corps Regulatory Official Steven Lund Telephone No. (828) 271-4857

Expiration Date of Verification December 31, 2002

**SURVEY PLATS, FIELD SKETCH, WETLAND DELINEATION FORMS, PROJECT PLANS, ETC.,
MUST
BE ATTACHED TO THE YELLOW (FILE) COPY OF THIS FORM, IF REQUIRED OR AVAILABLE.**

B2119



**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS**

P.O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

IN REPLY REFER TO

Permit Number: 199830751
Name of County: Catawba
Name of Permittee: NCDOT/Bridge No. 152/SR 1003
Date of Issuance: 7-30-98

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Attention: CESAW-RG-A
151 Patton Avenue, Room 143
Asheville, North Carolina 28801-5006

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

NATIONWIDE PERMIT #23. APPROVED CATEGORICAL EXCLUSIONS. Authorizes activities undertaken, assisted, authorized, regulated, funded or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality (CEQ) Regulation for the Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500 et seq.), that the activity, work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW-OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.

NATIONWIDE PERMIT CONDITIONS

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
4. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and case-by-case conditions. The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its Section 401 water quality certification.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)
8. Tribal rights. No activity or its operation may impair tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Water quality certification. The permittee must comply with all conditions of General Water Quality Certification No. 3107, issued by the North Carolina Division of Water Quality (NCDWQ) on February 11, 1997.

10. Coastal zone management. The North Carolina Division of Coastal Management (NCCDM), has determined that this nationwide permit (NWP) is conditionally consistent with the North Carolina Coastal Management Program. Notification to and written concurrence from the NCCDM is required prior to work in the twenty (20) coastal counties of North Carolina.

11. Endangered species.

a. No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-Federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity by a NWP does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at <http://www.fws.gov/~r9endspp.html> and http://kingfish.spp.mnfs.gov/tmcintyr/prot_res.html#ES and Recovery, respectively.

12. Historic properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR 325, Appendix C. The prospective permittee must be notified by the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. Compliance certification. Every permittee who has received a NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions; and

c. The signature of the permittee certifying the completion of the work and mitigation.

14. Multiple use of NWPs. In any case where NWP number 12 through 40 is combined with any other NWP number 12 through 40, as part of a single and complete project, the permittee must notify the District Engineer. Any NWP number 1 through 11 may be combined with any other NWP without notification to the Corps, unless notification is otherwise required by the terms of the NWPs. As provided at 33 CFR 330.6(c) two or more different NWPs can be combined to authorize a single and complete project. However, the same NWP cannot be used more than once for a single and complete project.

SECTION 404 ONLY CONDITIONS

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or fill material in waters of the United States, and must be followed in order for authorization by the NWPs to be valid:

1. Water supply intakes. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for the repair of the public water supply intake structure or adjacent bank stabilization.

2. Shellfish production. No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by NWP 4.

3. Suitable material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material discharges must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

4. Mitigation. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site), unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.

5. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. Obstructions to high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent possible.

8. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

REGIONAL CONDITIONS

1. Prior to the use of any NWP in a designated "Outstanding Resource Water" (ORW), a designated "High Quality Water" (HQW) or a designated "Primary Nursery Area" (PNA), of North Carolina or in contiguous wetlands (as defined by the North Carolina Division of Water Quality) to any of the above waters, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to working in the waters and/or contiguous wetlands and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the waters and/or adjacent wetlands as may be required by the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

2. Prior to use of any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), a proponent must first obtain the required CAMA permit and furnish a copy of the CAMA permit to the Wilmington District.

3. Prior to the use of any NWP on a barrier island of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to wetlands or waters as may be required by the conditions of the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

4. Prior to the use of any NWP in a "Mountain or Piedmont Bog" of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to wetlands or waters as may be required by the conditions of the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

5. Prior to use of any NWP for construction of animal waste facilities in waters and/or wetlands of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include the location of work; a description of work; a delineation of wetlands; a discussion of alternatives to the work and why alternatives were not selected; and, a plan to provide compensatory mitigation for all unavoidable adverse impacts to wetlands or waters as may be required by the applicable NWP. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District Engineer to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

NOTE: The total area of wetlands impacted, including wetlands drained by upland perimeter ditches or by other means, will be considered as cumulative impacts in making a decision to assert discretionary authority under any NWP.

6. Prior to the use of any NWP in mountain trout waters within twenty-five (25) designated counties of North Carolina, proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all of the conditions of the applicable NWP. Notification will include a letter of comments and recommendations from North Carolina Wildlife Resources Commission (NCWRC); the location of work; a delineation of wetlands; a discussion of alternatives to working in the mountain trout waters and why alternatives were not selected; and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the mountain trout waters. Work may proceed only after the permittee has received written, telephonic, or faxed approval from the authorized representative of the District to proceed. Normally such notice to proceed will be furnished within 30 calendar days of receipt of the above information.

a. The twenty-five (25) designated counties are:

Alleghany	Ashe	Avery
Buncombe	Burke	Caldwell
Cherokee	Clay	Graham
Haywood	Henderson	Jackson
Macon	Madison	McDowell
Mitchell	Polk	Rutherford
Stokes	Surry	Swain
Transylvania	Watauga	Wilkes
Yancey		

b. To obtain the required letter of approval from the North Carolina Wildlife Resources Commission (NCWRC), a proponent should contact:

North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
512 North Salisbury Street
Raleigh, NC 27611
Telephone (919) 733-7638

8. Proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all the following conditions prior to starting work. Notification will include the location of work, a description of work, a delineation of wetlands, a discussion regarding all wetlands and waters to be impacted, a discussion of alternatives to the proposal and why alternatives were not selected, and a plan to mitigate for all unavoidable adverse impacts to more than one (1) acre of wetlands and/or waters. Work may proceed only after receiving written, telephonic or faxed approval to proceed.

STATE CONSISTENCY CONDITION

If the proposed activity is within or has a potential to significantly affect any land or water use or natural resource of the North Carolina coastal area, a consistency determination pursuant to 15 CFR 930, Subpart C, may be required.

GENERAL CERTIFICATION CONDITIONS

1. Proposed fill or substantial modification under this General Certification requires written concurrence from the North Carolina Division of Water Quality (NCDWQ) regarding the extent of impact to waters and wetlands.

2. Two (2) copies shall be submitted to the North Carolina Division of Water Quality (NCDWQ) at the time of notification in accordance with 15A NACA 2H .0501(a).

3. Fill or alteration of more than one acre (0.45 ha) of wetlands will require compensatory mitigation in accordance with 15A NACA .0506 (h). Written NCDWQ approval is required for this mitigation plan which may utilize the State's Wetland Restoration Program.

4. Fill or alteration of more than 150 linear feet (45.7 meters) of streams may require compensatory mitigation in accordance with 15A NACA .0506 (h). Written NCDWQ approval is required for this mitigation plan which may utilize the State's Wetland Restoration Program.

5. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" (available from the North Carolina Division of Land Management in the DEHNR Regional or Central Offices) will be utilized to prevent exceedances of the appropriate turbidity water quality standard (50 NTU's in streams and rivers not designated as trout by NCDWQ, 25 NTU's in all saltwater classes and all lakes and reservoirs, and 10 NTU's in trout waters).

6. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the North Carolina Division of Land Resources has released the project.

7. If an environmental document is required, this Certification is not valid until a FONSI or ROD is issued by the State Clearinghouse.

8. Additional site-specific conditions may be added to this Certification to ensure compliance with all applicable water quality and effluent standards.

9. If the project is not completed within three(3) years from the date of the first notification to NCDWQ, then the applicant will again need to notify NCDWQ.

8. Proponents must notify the Wilmington District Engineer and furnish a written statement of compliance with all the following conditions prior to starting work. Notification will include the location of work, a description of work, a delineation of wetlands, a discussion regarding all wetlands and waters to be impacted, a discussion of alternatives to the proposal and why alternatives were not selected, and a plan to mitigate for all unavoidable adverse impacts to more than one (1) acre of wetlands and/or waters. Work may proceed only after receiving written, telephonic or faxed approval to proceed.

**GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE
FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 23 (APPROVED
CATEGORICAL EXCLUSIONS)**

This General Certification is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality Regulations in 15A NCAC 2H, Section .0500 and 15A NCAC 2B .0200 for the discharge of fill material to waters and wetland areas as described in 33 CFR 330 Appendix A (B) (23). This Certification replaces Water Quality Certification Number 2670 issued on January 21, 1992 and Water Quality Certification Number 2734 issued on May 1 1993. This WQC is rescinded when the Corps of Engineers reauthorize Nationwide Permit 23 or when deemed appropriate by the Director of the DWQ.

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.

Conditions of Certification:

1. Proposed fill or substantial modification of waters or wetlands for this General Certification requires written notification to the Division of Water Quality regarding the extent of impact to waters and wetlands;
2. Two copies shall be submitted to DWQ at the time of notification in accordance with 15A NCAC 2H .0501(a);
3. Fill or alteration of more than one acre (0.45 ha) of wetlands will require compensatory mitigation in accordance with 15A NCAC .0506 (h). Written DWQ approval is required for this mitigation plan which may utilize the state's Wetland Restoration Program;
4. Fill or alteration of more than 150 linear feet (45.7 meters) or streams may require compensatory mitigation in accordance with 15A NCAC 2H .0506(h). Written DWQ approval is required for this mitigation plan which may utilize the state's Wetland Restoration Program;
5. That appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent edition of the "North Carolina Erosion and Sediment Control Planning and Design Manual" or "North Carolina Surface Mining Manual" (available from the Division of Land Resources in the DEHNR Regional or Central Offices) are utilized to prevent exceedances of the appropriate turbidity water quality standard (50 NTUs in streams and rivers not designated as trout by DWQ; 25 NTUs in all saltwater classes, and all lakes and reservoirs; and 10 NTUs in trout waters);
6. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the Division of Land Resources has released the project;
7. If an environmental document is required, this Certification is not valid until a FONSI or ROD is issued by the State Clearinghouse;
8. That additional site-specific conditions may be added to

projects proposed under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

9. If the project is not completed within three years from the date of the first notification to DWQ, then the applicant will again need to notify DWQ.

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

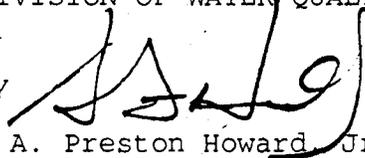
The Director of the North Carolina Division of Water Quality may require submission of a formal application for individual certification for any project in this category of activity, if it is determined that the project is likely to have a significant adverse effect upon water quality or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

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

Effective date: 11 February 1997.

DIVISION OF WATER QUALITY

By



A. Preston Howard, Jr. P.E.,
Director

gencert.23

WQC # 3107