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STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.
GOVERNOR

DAVID MCCOY
SECRETARY

November 7, 2000

MEMORANDUM TO: Mr. Jon G. Nance, P.E.
Division 5 Engineer

FROM: *fel* V. Charles Bruton, Ph.D. *Bruton*
Assistant Manager, Project Development and
Environmental Analysis Branch

SUBJECT: Durham County, I-85 from West of Broad Street to West of Camden
Avenue; State Project No. 8.1414801; TIP Number I-306DB

Attached are the U. S. Army Corps of Engineers General Permit Number 31 and the Division of Water Quality 401 Certification for the above referenced project. Please note this project is located within the Neuse River Basin and the NCDWQ has attached special additional conditions. All environmental permits have been received for the construction of this project.

VCB/eah

Attachment

cc: Ms. Debbie Barbour, P.E.
Mr. Calvin Leggett, P.E.
Mr. John Alford, P.E.
Mr. David Henderson, P.E.
Mr. Randy Garris, P.E.
Mr. Tim Rountree, P.E.
Mr. W. D. Johnson
Mr. N. L. Graf, FHWA

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1548 MAIL SERVICE CENTER
RALEIGH NC 27699-1548

TELEPHONE: 919-733-3141
FAX: 919-733-9794

WEBSITE: WWW.DOH.DOT.STATE.NC.US

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

PROJECT COMMITMENTS

I -85

From west of Broad Street to west of Camden Avenue

Durham County

State Project No. 8.1414801

Federal Aid Project No. I-85-4 (49) 174

TIP Project No. I-306 DB

In addition to the standard Regional General Permit #31 Special Conditions, the General Permit Conditions, Section 404 Only Conditions, and Section 401 Conditions of Certification, the following special commitments have been agreed to by NCDOT:

Commitments Developed Through Permitting

Hydraulics Unit, PDEA Unit

All stream relocations shall be constructed in accordance with the North Carolina Wildlife Resources Commission's "Stream Relocation Guidelines." NCDOT shall consult with NCWRC on all stream requirements and implement all practicable recommendations in the design of specific site requirements for re-establishment of bank vegetation, and placement of meanders and habitat structures. Vegetation shall be used to the maximum extent practicable to stabilize banks, and rip rap and other man-made structural measures shall be minimized.

Roadside Environmental Unit, PDEA Unit

The permittee shall visually monitor the vegetative planting on all mitigation stream banks to assess and insure complete stabilization of the mitigation stream segments. This monitoring shall include adequate visual monitoring of planted vegetation quarterly for a minimum of one year after final planting, and appropriate remedial actions (e.g. replanting, streambank grading, etc.). If within any monitoring year, bank stabilization is not acceptable as determined by the Corps of Engineers, and remedial actions required by the Corps of Engineers is performed, the one year monitoring of the affected portions of the stream will begin again. The permittee will coordinate stream mitigation activities with the Corps of Engineers, Raleigh Regulatory Field Office Project Manager, and will report verbally on the status of the stream mitigation within thirty days of the quarterly monitoring. The permittee will submit a brief written report with representative photographs within 90 days after the monitoring year is completed.

Hydraulics Unit

Stormwater shall be directed to sheetflow at nonerosive velocities through the protected stream buffers.

Traffic Engineering and Safety Systems Branch/ Design Services Unit

Construction warning signs will be placed upstream of the bridge site to alert canoeists.

Division 5

Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify DWQ (NCDENR – Wetlands/401 Unit, ATTN: Mr. John Hennessy, 1621 Mail Service Center, Raleigh, NC 27699-1621) when all work included in the 401 Certification has been completed.



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS

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

IN REPLY REFER TO

August 17, 2000

Regulatory Division
(Web page - <http://www.saw.usace.army.mil/wetlands/regtour.htm>)

Action ID. 200020902 (TIP No. I-306DB) and General Permit No. 198200031

Mr. William D. Gilmore, P.E., Manager
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
Division of Highways
1548 Mail Service Center
Raleigh, North Carolina 27699-1548



Dear Mr. Gilmore:

Reference your application of April 11, 2000, revised on August 7, 2000, for Department of the Army authorization to discharge fill material within waters of the United States, impacting a total of 1.57 acres of wetlands, and 3,933 linear feet of stream, for construction of the widening and improvements to I-85, crossing Ellerbe Creek and unnamed tributaries, in Durham, Durham County, North Carolina (T.I.P. No. I-306DB).

On January 1, 1998, we renewed general permit No. 198200031, (copy enclosed), that authorizes the placement of fill material associated with the construction, repair, or replacement of bridges across navigable waters and waters of the United States in North Carolina, including cofferdams, abutments, foundation seals, piers, temporary construction and access fills, approach fills, detour fills, and box culvert installation, as part of work conducted by or in full compliance with the standards and specifications of the North Carolina Department of Transportation (NCDOT).

Your proposed work (1.57 acres wetlands and 3,933 linear feet of stream impact, as described in your August 7, 2000 letter) is authorized by general permit No. 198200031, provided that it is accomplished in strict accordance with your submitted plans, the enclosed general conditions, the latest NCDOT Policy: Bridge Demolition and Removal in Waters of the United States (BDR Policy), including the Best Management Practices for Bridge Demolition and Removal, and the following special conditions:

a. The permittee shall mitigate for 1.57 acres of unavoidable impacts to wetlands associated with this project by payment to the North Carolina Wetlands Restoration Program (NCWRP) in an amount determined by the NCWRP sufficient to perform 1.16 acres of riparian,

palustrine forested wetland mitigation, and 0.43 acre of non-riparian, forested wetland mitigation in the upper Neuse River basin (Cataloging Unit 03020201). Construction within wetlands on the permitted highway project shall begin only after the permittee has made full payment to the NCWRP, and the NCWRP has made written confirmation to the District Engineer, that it agrees to accept responsibility for the mitigation work required, pursuant to Paragraph IV.D. of the Memorandum of Understanding between the North Carolina Department of Environment and Natural Resources and the U.S. Army Corps of Engineers, Wilmington District, dated November 4, 1998.

b. The permittee shall mitigate for 1,249 linear feet of unavoidable impacts to important stream channel associated with this project by payment to the North Carolina Wetlands Restoration Program (NCWRP) in an amount determined by the NCWRP sufficient to perform 1,249 linear feet of warm water stream mitigation in the Upper Neuse River basin (Cataloging Unit 03020201). Construction within streams on the permitted highway project shall begin only after the permittee has made full payment to the NCWRP, and the NCWRP has made written confirmation to the District Engineer, that it agrees to accept responsibility for the mitigation work required, pursuant to Paragraph IV.D. of the Memorandum of Understanding between the North Carolina Department of Environment and Natural Resources and the U.S. Army Corps of Engineers, Wilmington District, dated November 4, 1998.

c. The permittee shall mitigate for an additional 2,684 linear feet of unavoidable impacts to important stream channel associated with this project by completing 2,684 linear feet of onsite stream relocation, as described in the August 7, 2000 permit application. All stream relocations shall be constructed in accordance with the North Carolina Wildlife Resources Commission's (NCWRC) "Stream Relocation Guidelines." NCDOT shall consult with NCWRC on all stream relocations and implement all practicable recommendations in the design of specific site requirements for re-establishment of bank vegetation, and placement of meanders and habitat structures. Vegetation shall be used to the maximum extent practicable to stabilize banks, and riprap and other man-made structural measures shall be minimized.

d. The permittee shall visually monitor the vegetative plantings on all mitigation stream banks to assess and insure complete stabilization of the mitigation stream segments. This monitoring shall include adequate visual monitoring of planted vegetation quarterly for a minimum of one year after final planting, and appropriate remedial actions (e.g., replanting, streambank grading, etc.). If within any monitoring year, bank stabilization is not acceptable as determined by the Corps of Engineers, and remedial action required by the Corps of Engineers is

performed, the one year monitoring of the affected portions of the stream will begin again. The permittee will coordinate stream mitigation activities with the Corps of Engineers, Raleigh Regulatory Field Office Project Manager, and will report verbally on the status of the stream mitigation within thirty days of the quarterly monitoring. The permittee will submit a brief written report with representative photographs within 90 days after the monitoring year is completed.

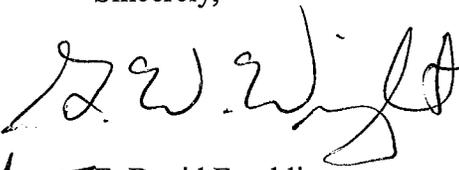
Please read the enclosed permit to prevent an unintentional violation of Federal law. As this Department of the Army general permit does not relieve you of the responsibility to obtain any other required approvals, you should contact appropriate State and local agencies before beginning work.

This permit does not relieve you of the responsibility to obtain other required State or local approvals.

Please note that this verification does not include impacts to waters of the United States from any on-site detours, borrow site use, spoil disposal, construction access, or bridge demolition, other than that specified in the application and drawings.

Should you have any questions, please contact Mr. Eric Alsmeyer at the Raleigh Regulatory Field Office, telephone (919) 876-8441, extension 23.

Sincerely,



E. David Franklin
Chief, NCDOT Team

Enclosures

Copies Furnished (without enclosures):

Mr. Roy Shelton
Federal Highway Administration
310 New Bern Ave., Rm 410
Raleigh, North Carolina 27601-1442

Mr. Ronald E. Ferrell
Wetlands Restoration Program
Division of Water Quality
North Carolina Department of
Environment and
Natural Resources
1619 Mail Service Center
Raleigh, NC 27699-1619

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 198200031
Name of Permittee: General Public
Effective Date: January 1, 1998
Expiration Date: December 31, 2002

DEPARTMENT OF THE ARMY
GENERAL PERMIT

A general permit to perform 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 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby renewed and modified by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE CONSTRUCTION, MAINTENANCE AND REPAIR OF BRIDGES SPANNING NAVIGABLE WATERS AND WATERS OF THE UNITED STATES, INCLUDING COFFERDAMS, ABUTMENTS, FOUNDATION SEALS, PIERS, APPROACH FILLS, DETOUR FILLS, BOX CULVERT INSTALLATION AND TEMPORARY CONSTRUCTION AND ACCESS FILLS, AS PART OF WORK CONDUCTED BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) OF OTHER STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE STATE OF NORTH CAROLINA.

1. Special Conditions.

a. Written confirmation that the proposed work complies with this general permit must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the Wilmington District Engineer the following information:

(1) A map indicating the location of the work.

(2) Plans of the proposed work (on 8-1/2-inch by 11-inch paper) showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the normal/high water elevation contours.

(3) A brief discussion of the affected wetlands, to include types or vegetation present.

(4) Approximate commencement and completion dates.

(5) Plans, including timetables and techniques, for construction, stabilization and removal of all temporary fills.

(6) Names and addresses of adjoining property owners.

b. In the case of fills of one acre or less, including permanent approach fills, detour fills and fills associated with culvert installation, the Corps of Engineers' Project Manager will determine, after appropriate onsite visits and review of plans, if the impact on wetlands is likely to be such as to require review by Federal and State agencies. If it is determined that impacts are minimal or can be made minimal by changes agreed to by the applicant, a letter of authorization to proceed will be provided. If it is determined that review by Federal and State agencies is necessary to fully evaluate impacts, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment, Health and Natural Resources. These agencies will furnish comments to the Wilmington District Engineer within thirty (30) days.

c. In cases of fills greater than one acre, copies of all plans and materials will be forwarded to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA) and the North Carolina Department of Environment, Health and Natural Resources. These agencies will furnish comments to the Wilmington District Engineer in thirty (30) days. In cases of land disturbing activities comprising more than one acre, a Sedimentation/Erosion Control Plan will be filled with the North Carolina Division of Land Resources, Land Quality Section, thirty (30) days prior to commencing work.

d. In the event that any Federal agency maintains an objection or any required State authorization is outstanding, no notice to proceed will be given until objections are resolved and State authorizations are issued.

e. No work will proceed until after the applicant has received written notice to proceed from the Wilmington District Engineer. This notice may include additional conditions and/or restrictions. Copies of the notice to proceed will be furnished to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental

Protection Agency (EPA) and the North Carolina Department of Environment, Health and Natural Resources with a brief description of the work, including the area of wetlands affected and the quantity of fill material.

f. Upon completion of any work authorized by this general permit, all temporary fills will be completely removed and the area reestablished as a wetland by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

g. All fills, temporary and permanent, must be stabilized to prevent erosion of fill material into adjacent waters or wetlands.

h. In cases where new, permanent fill is to be established and an older fill (approaches, causeways, etc.) is no longer to be maintained as a roadway, the older fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Wilmington District Engineer for approval. Information in the restoration plan will be in accordance with special condition i. below.

i. Discharges of dredged or fill material into waters of the United States, including wetlands, must be minimized or avoided to the maximum extent practicable. In reviewing an activity, the Wilmington District Engineer will first determine whether the activity will result in more than minimal adverse environmental effects. For activities that are determined to have more than minimal impacts, compensatory mitigation will be required. To expedite the process, the applicant will provide a mitigation plan with the request for authorization. Creation and restoration proposals will include, but are not necessarily limited to, a description of work, a schedule of work and a monitoring plan, and they will be in accordance with currently approved Wilmington District and/or Corps-wide mitigation guidelines. Mitigation banking may, in some situations, be considered acceptable mitigation.

j. Activities in any mountain trout waters must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources Commission (NCWRC) and/or the North Carolina Division of Water Quality (NCDWQ). Work that may result in the sedimentation of trout waters will generally be prohibited from November 1 to April 15, of any year, to avoid impacts on trout spawning.

k. Before discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters, the applicant will obtain a letter of approval from the North Carolina Wildlife Resources Commission (NCWRC) and furnish a copy of the letter to the Wilmington District Engineer.

The applicant should contact:

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

The counties in which this condition applies 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		

l. This permit does not authorize the use of culverts in areas designated as anadromous fish spawning areas by the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC).

m. No activity may disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area.

n. This permit generally allows the permanent installation of culverts to 100 feet in length. For culverts longer than 100 feet, the proposed application will be closely evaluated to determine if unacceptable impacts on movement of aquatic organisms would result. In such cases, approval may not be provided.

o. All culverts shall be installed with the bottom placed one (1) foot below the natural stream bottom and at the same slope as the natural bottom or an open-bottom culvert or spanning structure shall be used.

p. All activities authorized by this general permit shall, to the extent practicable, be conducted "in the dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted.

q. Should all or part of a proposed development activity be located within an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a Coastal Area Management Act (CAMA) permit is required from the North Carolina Division of Coastal Management. Should an activity within or potentially affecting an AEC be proposed by a Federal agency, a consistency determination pursuant to 15 CFR 930 must be provided to the North Carolina Division of Coastal Management before the onset of the proposed activity.

r. All work will comply with Water Quality Certification No. 3100, issued by the North Carolina Division of Water Quality (NCDWQ) on February 11, 1997. Proposed fill or substantial modification of waters or wetlands for this General Certification requires written concurrence from the North Carolina Division of Water Quality.

2. General Conditions.

a. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the North Carolina Division of Water Quality (NCDWQ) regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is 50 NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDEM), 25 NTU's or less in all saltwater classes and in all lakes and reservoirs, and 10 NTU's or less in trout

waters, are not considered significant.

f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

g. This general permit **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this general permit may be either modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this general permit shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

i. This general permit does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by State and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and

State of North Carolina
Department of Environment
and Natural Resources
Division of Water Quality

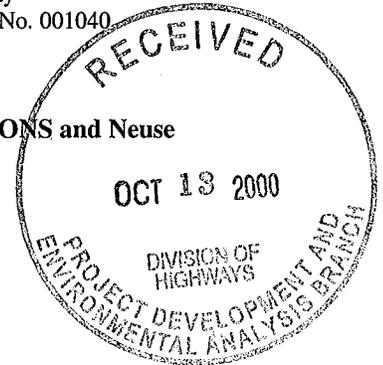
James B. Hunt, Jr., Governor
Bill Holman, Secretary
Kerr T. Stevens, Director



September 29, 2000
Durham County
DWQ Project No. 001040
TIP I-306DB

APPROVAL OF 401 Water Quality Certification and ADDITIONAL CONDITIONS and Neuse River Buffer Rules

Mr. William D. Gilmore, P.E., Manager
Planning and Environmental Branch
North Carolina Department of Transportation
P.O. Box 25201
Raleigh, NC, 27611-5201



Dear Mr. Gilmore:

You have our approval, as described in your application dated August 7, 2000 and subsequent correspondence (with associated permit drawings) dated September 6, 2000, and in accordance with the attached conditions and those listed below, to place fill material in 1.57 acres of wetlands, 3933 linear feet of streams, and 9.5 acres of Neuse Buffers for the purpose of widening and improving Interstate 85 in Durham County. The project should be constructed in accordance with your application dated August 7, 2000. After reviewing your application, we have decided that this fill is covered by General Water Quality Certification Number 3289. As the Corps of Engineers has determined that each crossing of jurisdictional area is separate and distinct, this Certification authorizes each crossing as a General Water Quality Certification Number 3289. This certification corresponds to the General Permit 198200031 issued by the Corps of Engineers. This approval is also valid for the Neuse River buffer rules (15A NCAC 2B .033). 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 when the accompanying 404 permit expires unless otherwise specified in the General Certification.

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 DWQ 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). This approval shall expire with the corresponding Nationwide Permit expires or as otherwise provided in the General Certification. For this approval to be valid, you must follow the conditions listed in the attached certification and any additional conditions listed below.

1. Stormwater shall be directed to sheetflow at nonerosive velocities through the protected stream buffers.
2. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed.

Wetlands/401 Unit

1621 Mail Service Center

Raleigh, North Carolina 27699-1621

Telephone 919-733-1786

FAX 733-9959

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State of North Carolina
 Department of Environment
 and Natural Resources
 Division of Water Quality



James B. Hunt, Jr., Governor
 Bill Holman, Secretary
 Kerr T. Stevens, Director

The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the Division of Water Quality upon completion of the project.

3. Compensatory mitigation for the 1.57 acres of wetland impact will be provided through an in lieu payment to the North Carolina Wetland Restoration Program (NCWRP) for 1.57 acres of wetlands (1.16 riverine, and 0.43 non-riverine). Additional mitigation will be provided on-site as described in the permit application dated August 7, 2000. In accordance with 15A NCAC 2R.0500, the contribution will satisfy our compensatory mitigation requirements under 15A NCAC 2H.0506(h). Until the Wetland Restoration Program receives and clears your check (made payable to DENR – Wetland Restoration Program), wetland or stream fill shall not occur. Mr. Ron Ferrell should be contacted at 919-733-5083 ext. 358 if you have any questions concerning the Wetland Restoration Program. The payment to NCWRP shall be sent within two months of issuance of the 404 permit.
4. Compensatory mitigation for 3933 linear feet of streams will be required. With a mitigation ratio of 1:1, 3933 linear feet of mitigation is required. Relocation of 2684 linear feet of streams on-site as described in the application dated August 7, 2000 will account for 2684 linear feet of the necessary mitigation. An additional 1249 linear feet of stream mitigation will be provided through an in lieu payment to the North Carolina Wetland Restoration Program (NCWRP). In accordance with 15A NCAC 2R.0500, the contribution will satisfy our compensatory mitigation requirements under 15A NCAC 2H.0506(h). Until the Wetland Restoration Program receives and clears your check (made payable to DENR – Wetland Restoration Program), wetland or stream fill shall not occur. Mr. Ron Ferrell should be contacted at 919-733-5083 ext. 358 if you have any questions concerning the Wetland Restoration Program. The payment to NCWRP shall be sent within two months of issuance of the 404 permit.
5. Compensatory mitigation for impacts to 12.034 acres of riparian buffers will be required as described below:

Zone of Impact	Impacts (Acres)	Replacement Ratio	Total Mitigation Required	On-Site Mitigation	Total Acres of Mitigation Required
Zone 1	7.43	3:1	22.30	3.47	18.83
Zone 2	4.60	1.5:1	6.90	1.92	4.98
Total					23.82

Mitigation for unavoidable impacts to Neuse Riparian Buffers shall be provided through an in-lieu payment to the North Carolina Wetlands Restoration Program (NCWRP) at a rate of \$41,625 per acre for 23.82 acres of buffer impact. Therefore, rounding to the nearest quarter acre, a total payment of \$990,000 (24.00 acres times \$41,625/acre) shall be submitted to the NCWRP to offset the impacts incurred by the project. No construction activities in buffers shall begin until payment for buffer mitigation is made to the NCWRP.

State of North Carolina
Department of Environment
and Natural Resources
Division of Water Quality

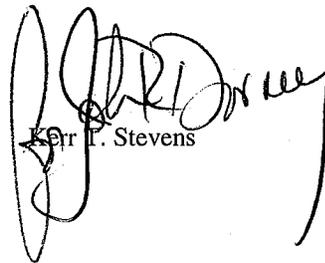


James B. Hunt, Jr., Governor
Bill Holman, Secretary
Kerr T. Stevens, Director

If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition, which conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, P.O. Box 27447, Raleigh, N.C. 27611-7447. This certification and its conditions are final and binding unless you ask for a hearing.

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 telephone John Dorney at 919-733-1786.

Sincerely,



Kerr T. Stevens

Attachment

cc: Wilmington District Corps of Engineers
Corps of Engineers Raleigh Field Office
Raleigh DWQ Regional Office
File Copy
Central Files

c:\ncdot\TIP I-306\wqc\001040wqc.doc

Wetlands/401 Unit

1621 Mail Service Center

Raleigh, North Carolina 27699-1621

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FAX 733-9959

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Division of Water Quality

James B. Hunt, Jr., Governor
Bill Holman, Secretary
Kerr T. Stevens, Director



**ROAD CROSSING CERTIFICATION GENERAL CERTIFICATION FOR PROJECTS
ELIGIBLE FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 14 (ROAD
CROSSINGS), REGIONAL GENERAL PERMIT 198200031 AND NEUSE/TAR
PAMLICO/RANDLEMAN BUFFER RULES**

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 (DWQ) 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) (14) of the Corps of Engineers regulations (i.e., Nationwide Permit No. 14 and Regional General Permit 198200031) and for the Neuse, Tar-Pamlico and Randleman Buffer Rules (15A NCAC 2B .0233, .0259 and .0250). The category of activities shall include any fill activity for road crossing and is limited to fill less than one-third of an acre. This Certification replaces Water Quality Certification Number 2177 issued on November 5, 1987, Water Quality Certification Number 2666 issued on January 21, 1992, Water Quality Certification Number 2732 issued on May 1, 1992 and Water Quality Certification Number 3103 issued on February 11, 1997. This WQC is rescinded when the Corps of Engineers re-authorizes Nationwide Permit 14 or Regional General Permit 198200031 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 wetlands or waters (including streams) under this General Certification requires application to and prior written concurrence from the Division of Water Quality;
2. In accordance with North Carolina General Statute Section 143-215.3D(e), any application for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;
3. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to streams and/or wetlands. In addition, buffer mitigation may be required for any project with Buffer Rules in effect at the time of application. A determination of buffer, wetland and stream mitigation requirements shall be made for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols;
4. For any project involving a stream re-alignment, a stream relocation plan must be included with the 401 application for written DWQ approval. Relocated stream designs should include the same dimensions, patterns and profiles as the existing channel, to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir

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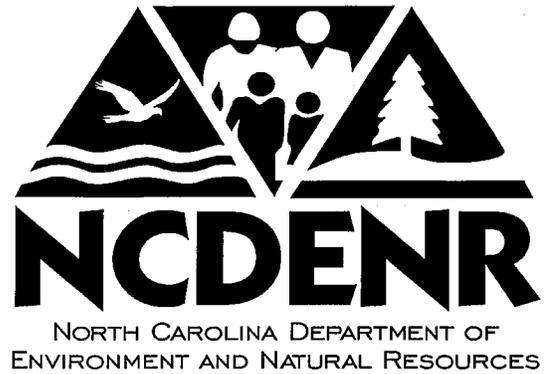
State of North Carolina
Department of Environment
and Natural Resources
Division of Water Quality



James B. Hunt, Jr., Governor
Bill Holman, Secretary
Kerr T. Stevens, Director

- fiber and seedling establishment is allowable. Also, rip-rap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested. If suitable stream mitigation is not practical on-site, then stream impact will need to be mitigated elsewhere;
5. Impacts to any stream length in the Neuse, Tar-Pamlico and Randleman River Basins requires written concurrence from DWQ in accordance with 15A NCAC 2B.0233, 15A NCAC 2B .0259 and .0250 and 15A NCAC 2H .0500. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico and Randleman River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233, 15A NCAC 2B .0259 and .0250. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification;
 6. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ. Additionally, when roadways, causeways or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must 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;
 7. If this Certification is used to access building sites, all lots owned by the applicant must be buildable without additional fill beyond that allowed under other General Certifications. Deed restrictions must be placed on the remaining wetlands and streams on these lots to restrict future wetland and stream fill. DWQ shall be sent copies of all deed restrictions applied to these lots;
 8. That 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" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard;
 9. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored within two months after the Division of Land Resources has released the project;
 10. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;

State of North Carolina
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11. This Certification shall be utilized for roads from natural high ground to natural high ground. The Certification for Nationwide Permit 18 may not be used in conjunction with this Certification to create high ground for road access;
12. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse. All water quality-related conditions of the FONSI or ROD shall become conditions of this Certification;
13. 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;
14. When written concurrence is required, the applicant is required to use the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed;
15. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide Permit 14 and Regional General Permit 198200031 whichever is sooner.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may 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, stream 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: 1 June 2000

DIVISION OF WATER QUALITY

By

Kerr T. Stevens

Director

WQC # 3289

Wetlands/401 Unit

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James B. Hunt, Jr., Governor
Bill Holman, Secretary
Kerr T. Stevens, Director

DWQ Project No.: _____
Applicant: _____

County: _____

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/Wetlands Unit, North Carolina Division of Water Quality, 1621 Mail Service Center, Raleigh, NC, 27699-1621. This form may be returned to DWQ 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

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Signature _____ Registration No. _____

Date _____



Wetlands/401 Certification Unit

Certifications and Draft Certifications

ROAD CROSSING CERTIFICATION

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 14 (ROAD CROSSINGS).

REGIONAL GENERAL PERMIT 198200031 AND NEUSE/TAR-PAMLICO/RANDLEMAN BUFFER RULES

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shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard:

9. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored within two months after the Division of Land Resources has released the project;
10. Measures shall be taken to prevent live or fresh concrete from coming into contact with water of the state until the concrete has hardened;
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Effective date: 1 June 2000

DIVISION OF WATER QUALITY

By

Kerr T. Stevens

Director

WQC # 3289

The Wetlands/401 Water Quality Certification Unit of the Division of Water Quality - North Carolina Department of Environment and Natural Resources. For more information please call (919) 733-1786 or write NC DENR/Division of Water Quality, Wetlands Unit, 1621 Mail Service Center, Raleigh, NC 27699-1621. For information or comments on this Web Site please email Todd St. John - "todd.st.john@ncmail.net"

State of North Carolina
Department of Environment
and Natural Resources
Division of Water Quality



James B. Hunt, Jr., Governor
Bill Holman, Secretary
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**NORTH CAROLINA - DIVISION OF WATER QUALITY
401 WATER QUALITY CERTIFICATION
SUMMARY OF PERMITTED IMPACTS AND MITIGATION REQUIREMENTS**

In accordance with 15A NCAC 2H.0500, the North Carolina Department of Transportation is authorized to impact the surface waters of the State of North Carolina as indicated below for the purpose of constructing improvements to Interstate 85 in Durham (TIP No. I-306DB, DWQ No. 001040). All activities associated with these authorized impacts must be conducted in accordance with the conditions listed in the attached certification transmittal letter. **THIS CERTIFICATION IS NOT VALID WITHOUT THE ATTACHMENTS.**

COMPENSATORY MITIGATION REQUIREMENTS FOR WETLAND RESTORATION:

LOCATION: Improvements Interstate 85 in Durham
COUNTY: Durham
BASIN/SUBBASIN: Neuse, Cataloging Unit 03020201
DWQ No.: 001040

As required by 15A NCAC 2H.0506, and the conditions of this certification, you are required to compensate for the above impacts through the restoration, creation, enhancement or preservation of wetlands and surface waters as outlined below prior to conducting any activities that impact or degrade waters of the state.

Note: Acreage requirements proposed to be mitigated through the Wetland Restoration Program must be rounded to one-quarter increments according to 15A 2R.0503(b).

1.57 acres of Class WL wetlands
 1.16 acres of riparian wetlands
 0.43 acres of non-riparian wetlands

0 acres of Class SWL wetlands

1249 linear feet of stream channel

24.00 acres of Neuse Riparian Buffers

State of North Carolina
Department of Environment
and Natural Resources
Division of Water Quality



NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

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One of the options you have available to satisfy the compensatory mitigation requirements is through payment of a fee to the Wetland Restoration Fund per 15A NCAC 2R.0503. If you choose this option, please sign this form and mail it to the Wetlands Restoration Fund at the address listed below. An invoice for the appropriate amount of payment will be sent to you upon receipt of this form. PLEASE NOTE, THE ABOVE IMPACTS ARE NOT AUTHORIZED UNTIL YOU RECEIVE NOTIFICATION THAT YOUR PAYMENT HAS BEEN PROCESSED BY THE WETLANDS RESTORATION PROGRAM.


Signature

2/21/01
Date

WETLANDS RESTORATION PROGRAM
DIVISION OF WATER QUALITY
P.O. BOX 29535
RALEIGH, NC, 27626-0535
(919) 733-5208

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SCHEDULE CHANGE REQUEST FORM

N C DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

TO: OMAR S. SULTAN
SCHEDULING UNIT HEAD
PROGRAMMING AND TIP BRANCH

T.I.P. ID#: U-2803
County: ORANGE

FROM: BEVERLY ROBINSON
BRANCH/UNIT: MCINNIS
DATE: 1/25/01

APPROVED BY L.P. McArthur

COMMENTS: AWAITING COMMUNITY IMPACT ASSESSMENT REPORT. SCHEDULE REFLECTS COMMUNITY IMPACT ASSESSMENT REPORT RECEIVED BY MID FEBRUARY.

PDEA SCHEDULE CHANGE REQUESTS					
CODE	DESCRIPTION	(Begin Date)		(Completion Date)	
		FROM	TO	FROM	TO
114	STATE EA/FONSI			12/30/00	3/30/01

RECEIVED
FEB 19 2001
Scheduling Unit

	FROM	TO
324 PRODUCTION R/W		
325 T.I.P. R/W		
627 PRODUCTION LETTING DATE		
630 T.I.P. LETTING DATE		
705 CONTRACT COMPLETION DATE		

SENT
SENT 4/19/02 6/21/02
10/21/03 OK

** DO NOT WRITE IN THE SPACES BELOW. FOR SCHEDULING UNIT USE ONLY **

TIP CHANG : FED FY CHANGE STATE FY CHANG HOTLINE CREATED BY: BGR
REVIEWED WITH RPE McMillan PMSS UPDATED BY: [Signature] DISTRIBUTED BY: [Signature]
NUMBER OF PARCELS: _____ NUMBER OF RELOCATEES: _____ UTILITY IMPACT:
R/W ACQUISITION TIME: _____ (Months) SCHEDULING UNIT HEAD: Omar S. Sultan
REMARKS: _____ YYN