



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS

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

May 17, 1999

IN REPLY REFER TO

Regulatory Division

SUBJECT: Action ID. 199502886, TIP No. I-2402A, B, & D

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

Dear Mr. Gilmore:

In accordance with your written request of August 11, 1998, subsequently modified, and the resulting administrative record, enclosed is a Department of the Army (DA) permit to authorize the discharge of dredged and fill material in waters of the United States, for construction of Sections A, B, and C of the I-85 Greensboro Bypass (T.I.P. No. I-2402A, B, & C), crossing Jenny Branch, Hickory Creek Ryan Creek, Little Alamance Creek, unnamed tributaries, and adjacent wetlands, from existing I-85 east of SR 3000 (McConnell Road) to I-85 south of SR 1117 (Holden Road), south of Greensboro, in Guilford County, North Carolina.

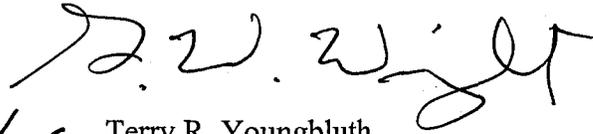
If any change in the authorized work is required because of unforeseen or altered conditions or for any other reason, the plans revised to show the change must be sent promptly to this office. Such action is necessary, as revised plans must be reviewed and the permit modified.

Carefully read your permit. The general and special conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant general conditions require that:

- a. You must complete construction before December 31, 2002.
- b. You must notify this office in advance as to when you intend to commence and complete work.
- c. You must allow representatives from this office to make periodic visits to your worksite as deemed necessary to assure compliance with permit plans and conditions.

Should you have questions, contact Mr. Eric Alsmeyer of my Raleigh Field Office regulatory staff at telephone (919) 876-8441, extension 23.

Sincerely,



Terry R. Youngbluth
Colonel, U.S. Army
District Engineer

Enclosures

Copy Furnished with enclosures:

Chief, Source Data Unit
NOAA/National Ocean Service
ATTN: Sharon Tear N/CS261
1315 East-west Hwy., Rm 7316
Silver Spring, MD 20910-3282

Mr. William L. Cox, Chief
Wetlands Protection Section - Region IV
Water Management Division
U.S. Environmental Protection Agency
61 Forsyth Street
Atlanta, Georgia 30303

Copies Furnished with special conditions
and plans:

U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. John Parker
Division of Coastal Management
North Carolina Department of
Environment and Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687

Mr. Larry Hardy
National Marine Fisheries Service
Pivers Island
Beaufort, North Carolina 28516

Mr. Ron Ferrell
Division of Water Quality
Post Office Box 29535
Raleigh, North Carolina 27626-0535

DEPARTMENT OF THE ARMY PERMIT

Permittee NCDOT

Permit No. 199502886

Issuing Office CESAW-RG-R

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Place fill material impacting a total of 20.80 acres of waters of the United States, including 14.73 acres of wetlands and 20,801 linear feet of stream, for construction of Sections A, B, and C of the I-85 Greensboro Bypass improvements (T.I.P. No. I-2402A,B, &C), crossing Jenny Branch, Hickory Creek, Ryan Creek, Little Alamance Creek, unnamed tributaries, and adjacent wetlands.

Project Location:

From existing I-85/40 east of SR 3000 (McConnell Road) to I-85 south of SR 1117 (Holden Road), south of Greensboro, in Guilford County, North Carolina.

Permit Conditions:

General Conditions:

December 31, 2002

1. The time limit for completing the work authorized ends on _____ . If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See enclosed sheet.

Further Information:

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. **Limits of this authorization.**

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

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

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

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

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

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

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

William J. Moore 5/12/99
(PERMITTEE) (DATE)
NC DEPARTMENT OF TRANSPORTATION

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Terry R. Youngbluth 5/18/99
(DISTRICT ENGINEER) (DATE)
TERRY R. YOUNGBLUTH, COLONEL

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree) (DATE)

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

COPY

RECEIVED JAN 04 1999



James B. Hunt, Jr., Governor
Wayne McDevitt, Secretary
A. Preston Howard, Jr., P.E., Director

December 17, 1998

Mr. William Gilmore, P.E.
Manager, Planning and Environmental Branch
North Carolina Department of Transportation
PO Box 25201
Raleigh NC 27611-2501

Dear Mr. Gilmore:

Re: Certification Pursuant to Section 401 of the Federal Clean Water Act,
Proposed Greensboro Bypass
WQC Project # 980349; COE Action ID. #199402800; T.I.P. Nos. I-0100
Durham and Wake Counties

Attached hereto is a copy of Certification No. 3213 issued to NC DOT dated December 17, 1998.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

A. Preston Howard, Jr. P.E.

Attachments

980349.ltr

cc: Wilmington District Corps of Engineers
Corps of Engineers Raleigh Field Office
Winston-Salem DWQ Regional Office
Mr. John Dorney
Mr. John Parker, Division of Coastal Management
Central Files

NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

THIS 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 15 NCAC 2H, Section .0500 to place fill in waters and wetlands resulting in 20,749 linear feet (6,797 feet of which can be relocated onsite) of stream impact and 13.51 acres of permanent wetland fill and 0.72 acre of temporary wetland fill in Guilford County pursuant to an application filed on the 10th day of July 1998, to construct the Greensboro Bypass (T.I.P. No. I-2402A, B and C).

The application provides adequate assurance that the discharge of fill material into the waters of Little Alamance Creek, Jenny Branch, the Deep River, Hickory Creek, Byan Creek and South Buffalo Creek in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your application, as described in the Public Notice. If you change your project, you must notify us and send us a new application for a new certification. If the property is sold, the new owner must be given a copy of the Certification and approval letter and is thereby responsible for complying with all conditions. If additional wetland fill is later required for this project, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to be valid, you must follow the conditions listed below. In addition, you should get any other federal, state or local permits before you go ahead with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations.

Condition(s) of Certification:

1. Appropriate sediment and erosion control practices which exceed or equal 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 Division of Land Resources in the DENR Regional or Central Offices) shall be utilized to prevent exceedances of the appropriate turbidity water quality standard (50 NTU's in all fresh water streams and rivers not designated as trout waters; 25 NTU's in all lakes and reservoirs, and all saltwater classes; and 10 NTU's in trout waters);
2. 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;
3. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;

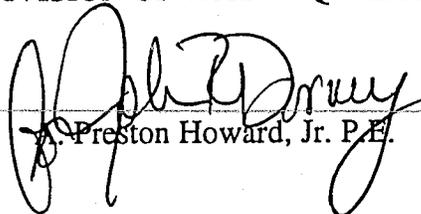
4. Should waste or borrow sites be located in wetlands, compensatory mitigation will be required since it is a direct impact from construction activities;
5. We understand that you have chosen to contribute to the Wetland Restoration Program in order to compensate for wetland impacts associated with I-2402C. In accordance with 15A NCAC 2R.0500, this contribution will satisfy our compensatory mitigation requirements under 15A NCAC 2H.0506(h). According to 15A NCAC 2H.0506(h), and in consultation with the Corps of Engineers, 4.75 acres of wetland mitigation will be required for 2.37 acres of wetland fill for I-2402C. 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. You have one month from the date of this Certification to make this payment. For accounting purposes, this Certification authorizes the fill in 2.37 acres of wetlands in the Cape Fear River and Subbasin and 4.75 acres of wetland restoration are required. Please be aware that the Wetland Restoration Program rules require rounding of acreage amounts to the nearest one-quarter acre (15A 2R .0503(b)).
6. Compensatory mitigation for stream impacts associated with I-2402C as well as wetland and stream impacts for I-2402A and B shall be done in accordance with the Corps of Engineers requirements. DWQ shall be copied on a detailed mitigation and monitoring plan as well as the approved ratio, location, size and method of mitigation (restoration, enhancement, creation, and preservation) within 30 days after the permit is released for I-2402A and B. Annual reports shall be submitted to DWQ for the entire length of the monitoring period.

Violations of any condition herein set forth shall result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 Permit. This Certification shall expire upon expiration of the 404 Permit.

If this Certification is unacceptable to you have the right to an adjudicatory hearing upon written request within sixty (60) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, P.O. Box 27447, Raleigh, N.C. 27611-7447. If modifications are made to an original Certification, you have the right to an adjudicatory hearing on the modifications upon written request within sixty (60) days following receipt of the Certification. Unless such demands are made, this Certification shall be final and binding.

This the 17th day of December 1998

DIVISION OF WATER QUALITY


A. Preston Howard, Jr. P.E.

WQC # 3213

SPECIAL CONDITIONS

a. All work authorized by this permit must be prepared in strict compliance with the attached plans, which are a part of this permit.

b. The permittee shall mitigate for 14.73 acres of unavoidable impacts to wetlands for the entire project, and 20,801 linear feet of stream impact which requires mitigation, as described below (29.46 acres of wetland mitigation and 23,862 linear feet of stream restoration through the North Carolina Wetlands Restoration Program, 6,577 linear feet of onsite stream relocation, and 2,293 linear feet of stream restoration/enhancement at the Starmount Forest Country Club site).

NCWRP WETLANDS MITIGATION

c. The permittee shall mitigate for 14.73 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 29.46 acres of riparian, palustrine, forested wetlands restoration mitigation in the Haw River basin (Cataloging Unit 03030002). Construction within wetlands on this 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.

ONSITE STREAM RELOCATION

d. The permittee shall mitigate for 6,577 linear feet of unavoidable impacts to stream channel associated with this project by completing 6,577 linear feet of onsite stream relocation, as described in the 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.

e. The permittee shall visually monitor the vegetative plantings on the mitigation stream banks to assess and insure complete stabilization of the mitigation stream segments. This monitoring shall include adequate visual monitoring of planted vegetation for a minimum of one year after final planting, and appropriate remedial actions (e.g., replanting, streambank grading, etc.).

STARMOUNT FOREST STREAM MITIGATION

f. The permittee shall mitigate for 2,293 linear feet of impacts to stream channel associated with this project with 2,293 linear feet of "B Buffer" stream restoration, as described in the "Stream Restoration Mitigation Plan, Tributaries to North Buffalo Creek in Starmount Forest Country Club", prepared by KCI Associates of North Carolina, Inc., and dated October, 1998, to the extent necessary to provide the required mitigation.

g. The permittee shall visually monitor the vegetative plantings on the 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.), and will submit a brief report with representative photographs within 90 days after the monitoring is completed.

NCWRP STREAM MITIGATION

h. The permittee shall mitigate for 11,931 linear feet of unavoidable impacts to stream channel associated with this project by payment to the North Carolina Wetlands Restoration Program (NCWRP) for 23,862 linear feet of warm water stream mitigation in the Haw River basin (Cataloging Unit 03030002). Construction within streams on Sections A and B of 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.

GENERAL MITIGATION

i. The permittee shall contact the Corps of Engineers, Raleigh Regulatory Field Office NCDOT Regulatory Project Manager, to provide that individual with the opportunity to attend the yearly mitigation monitoring efforts.

j. Failure to institute and carry out the details of special conditions a. - i., above, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedy as the District Engineer or his authorized representatives may seek.

OTHER CONDITIONS

k. Prior to commencing construction within jurisdictional waters of the United States, the permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Raleigh Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings are acceptable.

l. The permittee shall schedule a meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Raleigh Regulatory Field Office NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands, to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The permittee shall notify the Corps of Engineers Project Manager a minimum of thirty (30) days in advance of the scheduled meeting in order to provide that individual with ample opportunity to schedule and participate in the required meeting.

m. The permittee and its contractors and/or agents shall not excavate, fill, or perform mechanized landclearing at any time in the construction or maintenance of this project within ~~waters and/or wetlands, except as authorized by this permit, or~~ any modification to this permit. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification of

this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project.

n. To ensure that all borrow and waste activities occur on high ground, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall ensure that all such areas comply with the preceding condition (m.) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the preceding condition (m.). All information will be available to the Corps of Engineers upon request.

o. The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, including conditions and permit drawings.

p. The permittee shall comply with the conditions specified in the water quality certification, No. 3213, issued by the North Carolina Division of Water Quality on December 17, 1998.

q. The permittee shall use 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" to prevent turbidity levels greater than 50 NTU's in all streams and rivers, and 25 NTU's in all lakes.

r. The permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, after the North Carolina Division of Land Resources has released the project.

~~s. The permittee shall take measures to prevent live or fresh concrete from coming into contact with any surface waters until the concrete has hardened.~~

t. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the authorized work, he will immediately notify the Wilmington District Engineer who will initiate the required State/Federal coordination.

u. No excavated or fill material will be placed at any time in waters or wetlands outside the permitted construction areas, nor will it be placed in any location or in any manner so as to impair surface water flow into or out of any wetland area.

v. The permittee will maintain the authorized work in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if he abandons the permitted activity without transferring it to a third party.

w. All fill material will be clean and free of any pollutants except in trace quantities. Metal products, organic materials, or unsightly debris will not be used.

x. This Department of the Army permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

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

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

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

2. Damages to the permitted project or uses thereof as a result of current or future Federal activities initiated on behalf of the general public.

3. Damages to other permitted or unpermitted activities or structures caused by the authorized activity.

4. Design and construction deficiencies associated with the permitted work.

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