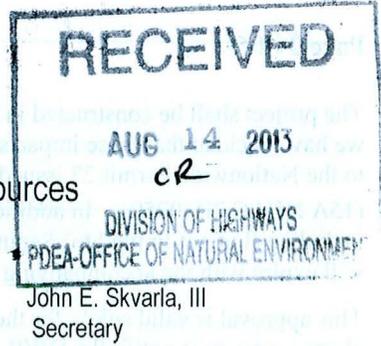




North Carolina Department of Environment and Natural Resources
 Division of Water Resources
 Water Quality Programs

Thomas A. Reeder
 Director

Pat McCrory
 Governor



August 9, 2013
 Beaufort County
 DWR Project No. 20130649
 TIP K-3800

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

Dr. Greg Thorpe, PhD., Manager
 Project Development and Environmental Analysis
 North Carolina Department of Transportation
 1598 Mail Service Center
 Raleigh, North Carolina, 27699-1598

Dear Dr. Thorpe:

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of constructing a new rest area along US 17 near Chocowinity in Beaufort County:

Stream Impacts in the Tar-Pamlico Basin

Site:	Stream Permanent (linear ft)	Stream Temporary (linear ft)	Permanent Surface Water Impacts (ac)	Temporary Surface Water Impacts (ac)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
1	128	30	<0.01	<0.01	158	128
2	141	30	<0.01	<0.01	171	141
TOTAL:	269	60	0.01	<0.01	329	269

Total Stream Impact: 329 linear feet

Buffer Impacts in the Tar-Pamlico Basin

Site:	Zone 1 Impact (sq ft)	minus Wetlands in Zone 1 (sq ft)	= Zone 1 Buffers (not wetlands) (sq ft)	Zone 1 Buffer Mitigation Required (using 3:1 ratio)	Zone 2 Impact (sq ft)	minus Wetlands in Zone 2 (sq ft)	= Zone 2 Buffers (not wetlands) (sq ft)	Zone 2 Buffer Mitigation Required (using 1.5:1 ratio)
1	5304	0	5304	15,912	3462	0	3462	5,193
2	6717	0	6717	20,151	4304	0	4304	6,456
3	0	0	0	0	981	0	981	1,472
Totals	12,021	0	12,021	36,063	8,747	0	8,747	13,121

Total buffer impacts: 20,768 sq ft. All buffer impacts are on the same stream. Impacts > 1/3 ac = mitigation required.

The project shall be constructed in accordance with your application dated received June 21, 2013. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3891. This certification corresponds to the Nationwide Permit 23 issued by the Corps of Engineers. This approval is also valid for the Tar-Pamlico Riparian Buffer Rules (15A NCAC 2B .0259). In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the DWR 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). Additionally, impacts to riparian buffers may require mitigation as described in 15A NCAC 2B .0259 (10) For this approval to remain valid, you must adhere to the conditions listed in the attached certification.

Project Specific Conditions

1. It is understood that you wish to perform on-site stream mitigation for the unavoidable impact to 269 linear feet of intermittent stream. The on-site stream mitigation proposal included in your application constitutes Enhancement Level II. Therefore, compensatory mitigation for impacts to 269 linear feet of stream is required at a replacement ratio of 1:1.5 or as directed by the U.S. Army Corps of Engineers per 15A NCAC 2H .0506(h)(1). The onsite stream mitigation shall be constructed in accordance with the design submitted in your June 19, 2013 application. All on-site mitigation sites shall be protected in perpetuity by a conservation easement or through NCDOT fee simple acquisition and recorded in the NCDOT Natural Environment Unit mitigation geodatabase. Please be reminded that as-builts for the completed streams shall be submitted to the North Carolina Division of Water Resources 401 Wetlands Unit with the as-builts for the rest of the project. If the parameters of this condition are not met, then the permittee shall supply additional stream mitigation for the 269 linear feet of impacts. To receive mitigation credit, a 50-foot wide native wooded buffer shall be planted on both sides of the stream unless otherwise authorized by this Certification.
2. Compensatory mitigation for impacts to 12,021 square feet of protected riparian buffers in Zone 1 and 8,747 square feet of protected riparian buffers in Zone 2 shall be required. In accordance with 15A NCAC 02B .0260(9) riparian vegetation reestablishment shall include a minimum of at least 2 native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity. The planting plan you submitted with your application dated June 19, 2013 was not sufficient in meeting the required density. Submittal of a buffer restoration plan meeting the requirements of 15A NCAC 02B .0260 (9)(d) for approval by the Division is required prior to construction activities. All on-site mitigation sites shall be protected in perpetuity by a conservation easement or through NCDOT fee simple acquisition and recorded in the NCDOT Natural Environment Unit mitigation geodatabase.
3. The permittee shall monitor the stream and buffer mitigation site. Monitoring shall consist of visual review and viable stem counts. An annual report shall be submitted to NCDWQ for a period of 5 years showing monitoring results including: bank stability, survival rate/ success of tree and vegetation establishment, and that diffuse flow through the riparian buffer has been maintained. The first annual report shall be submitted within one year of final planting. Failure to achieve a buffer density of 320 trees per acre after 5 years will require the annual report to provide appropriate remedial actions to be implemented and a schedule for implementation. Approval of the final annual report, and a formal "close out" of the mitigation site by NCDWQ is required.

General Conditions

1. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
2. The Permittee shall ensure that the final design drawings adhere to the certification and to the drawings submitted for approval.
3. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. 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 streambeds or banks, adjacent to or upstream and downstream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by

- NCDWR. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWR for guidance on how to proceed and to determine whether or not a permit modification will be required.
4. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
 5. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage.
 6. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.
 7. The outside buffer, wetland or water boundary located within the construction corridor approved by this certification shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.
 8. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
 9. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
 10. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
 11. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
 12. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:
 - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
 - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
 13. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
 14. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
 15. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
 16. Native riparian vegetation (ex. list trees and shrubs native to your geographic region) must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
 17. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this certification without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.
 18. All stormwater runoff shall be directed as sheetflow through stream buffers at nonerosive velocities, unless otherwise approved by this certification.

19. Pursuant to 15A NCAC 2B .0259(6), sediment and erosion control devices shall not be placed in Zone 1 of any Tar-Pamlico Buffer without prior approval by NCDWR. At this time, NCDWR has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.
20. New roadside ditches must be in compliance with the nitrogen control and diffuse flow requirements outlined in 15A NCAC 2B .0259.
21. All riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the preconstruction contours and revegetated. Maintained buffers shall be permanently revegetated with non-woody species by the end of the growing season following completion of construction. For the purpose of this condition, maintained buffer areas are defined as areas within the transportation corridor that will be subject to regular NCDOT maintenance activities including mowing. The area with non-maintained buffers shall be permanently revegetated with native woody species before the next growing season following completion of construction.
22. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If DWR determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWR may reevaluate and modify this certification.
23. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery.
24. Upon completion of the project (including any impacts at associated borrow or waste site), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify DWR when all work included in the 401 Certification has been completed.
25. A copy of this Water Quality Certification shall be maintained on site at the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.

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 that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699. 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 Resources under Section 401 of the Clean Water Act. If you have any questions, please contact Garcy Ward at (252) 948-3922.

Sincerely,



for Thomas A. Reeder

Attachments (General Certification and Certificate of Completion form)

cc: Tom Steffens, US Army Corps of Engineers, Washington Field Office
Jay Johnson, NC DOT, Division 2
Sonia Carrillo, DWQ, Transportation Permitting Unit
File Copy

DWQ Project No.: _____ County: _____

Applicant: _____

Project Name: _____

Date of Issuance of 401 Water Quality Certification: _____

Certificate of Completion

Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return this certificate to the 401 Transportation Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650. This form may be returned to 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 the observation of the construction such that the construction was observed to be built within substantial compliance and intent of the 401 Water Quality Certification and Buffer Rules, the approved plans and specifications, and other supporting materials.

Signature _____ Registration No. _____

Date _____