



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

May 19, 2003

Regulatory Division

Action ID: 199200013; TIP No: R-0211 DA/DB/DD

Dr. Gregory J. Thorpe, PhD., Manager
North Carolina Department of Transportation
Project Development and Environmental Analysis Branch
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

Reference the Department of the Army (DA) permit issued to the North Carolina Department of Transportation (NCDOT) on May 19, 1992 and modified May 6, 1993 that authorized the construction of a 5.4-mile long segment of the Charlotte Outer Loop Highway (I-485) between NC Highway 51 and Rea Road south of Charlotte, Mecklenburg County, North Carolina. The purpose of this letter is to review NCDOT's efforts to provide wetland mitigation required under this DA permit.

Special Condition No. 3 of the modified permit required that the NCDOT provide 22.2 acres of viable forested wetland as mitigation for impacts resulting from construction of R-0211 DA/DB/DD. The NCDOT subsequently constructed a 9.1-acre bottomland hardwood (BLH) mitigation site at Mallard Creek and a 13.1-acre BLH site at Little Sugar Creek in to fulfill this requirement. The Little Sugar Creek Site has been monitored for a period of 6 years and, based on your monitoring reports, has yet to demonstrate any consistent trends toward meeting the hydrology success criterion of the referenced permit. We have concluded that the Little Sugar Creek Site has failed to provide any of the required wetland mitigation and shows no promise toward meeting this requirement in the foreseeable future. Consequently, the NCDOT is in violation of the referenced permit and should proceed expeditiously to secure an additional 13.1 acres of wetland to replace the Little Sugar Creek Site.

As discussed with your staff during the March 11, 2003 Mitigation Monitoring Report Meeting, we are willing to consider a number of options including wetland restoration and/or preservation of high quality sites to make up the immediate 13.1-acre deficit. Due to the fact that the Charlotte Outer Loop impacts wetlands in several river basins, we would consider suitable sites in the Rocky River, Lower Catawba, Upper Catawba and South Fork Catawba basins. Although a single site would be preferred, we would also consider multiple sites and recommend that the NCDOT inventory successful in-house and full delivery locations for surpluses. We also recommend that you survey proposed stream mitigation sites in the area such as the Back Creek

and Little Coldwater Creek Sites for wetland mitigation potential. At this meeting we also discussed the fact that portions of the Mallard Creek and Long Creek Mitigation Sites have failed to consistently meet the hydrology success criterion. We therefore recommend that NCDOT also begin planning for some additional future wetland deficits associated with the Charlotte Outer Loop Highway.

Please provide a detailed written plan indicating the steps that NCDOT intends to take to comply with the referenced permit condition and make up the 13.1-acre wetland deficit at Little Sugar Creek. This plan should include an appropriate schedule and should be submitted within 30 days of the date of this letter. Following review of your response, we will determine if further administrative action is necessary. Such action may include suspending the processing of applications for the remaining sections of I-485 or the formal suspension/revocation of existing DA permits for this highway.

If you have any questions, please contact me or Mr. Steven Lund, Asheville Regulatory Field Office at telephone 828-271-7980.

Sincerely,

Charles R. Alexander, Jr.
Colonel, U.S. Army
District Engineer

Copy Furnished:

Mr. Phillip S. Harris, III, Manager ✓
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Office of Natural Environment, PDEA
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