



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

February 14, 1989

IN REPLY REFER TO
Regulatory Branch

SUBJECT: File No. CESAW-C089-N-060-0053

North Carolina Department of
Transportation
Division of Highways
Post Office Box 25201
Raleigh, North Carolina 27611-5201



Gentlemen:

In accordance with your written request of October 29, 1988, and the ensuing administrative record, enclosed is a permit to place fill material in Sugar Creek and adjacent wetlands in conjunction with construction of the City of Charlotte Interchange Interstate Highway 77 Outer Loop, Mecklenburg 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.

Please 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, 1992.
- 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.

The enclosed Notice of Authorization, ENG Form 4336, must be conspicuously displayed at your worksite.

Sincerely,

Paul W. Woodbury
Colonel, Corps of Engineers
District Engineer

Enclosures

DEPARTMENT OF THE ARMY PERMIT

North Carolina Department of Transportation
Division of Highways

Permittee Post Office Box 25201
Raleigh, North Carolina 27611-5201
Permit No. CESAW-CO89-N-060-0053

Issuing Office CESAW-CO-EP

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:

To place fill material in Sugar Creek and adjacent wetlands in conjunction with construction of the City of Charlotte Interchange Interstate Highway 77 Outer Loop

Project Location:

Mecklenburg County, North Carolina

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 1992. 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 attached 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.

a. The permittee will implement the measures and project design elements, described on pages 76 through 79 of the Final Environmental Impact Statement (FEIS), dated August 17, 1981, to avoid, minimize and compensate for adverse impacts on fish and wildlife resources.

b. Relocated streambed sections will be constructed "in the dry" before streamflow is diverted into them. Stream banks in replacement sections will be stabilized with vegetation or riprap material. Riprap material will be used only in sections where vegetation would be inadequate to protect banks from erosion.

c. The riprap material will be clean and free of any pollutants except in trace quantities.

d. Replacement channel sections will be constructed with riffles and pools to provide fishery habitat conditions as similar as possible to a natural stream system.

e. 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 waterbody is 50 NTU's or less are not considered significant.

f. Appropriate sedimentation and erosion control measures will be employed to minimize turbidity and siltation impacts.

NOTE: The Federal Emergency Management Agency (FEMA), Region IV, 1371 Peachtree Street, N.E., Suite 700, Atlanta, Georgia 30309, has informed us that the project will result in construction activity and realignment of the regulatory floodway. Therefore, the City of Charlotte must either (1) adopt a revised floodway by obtaining a Letter of Map Revision or (2) certify that the construction will not increase the currently adopted 100-year floodway elevation while retaining the adopted floodway width. Point of Contact is Ms. Mary Anne Lyle, telephone (404) 853-4432.

Copy Furnished (with enclosures):

Director, Atlantic Marine Center
National Ocean Service
ATTN: MOA 232X1
439 West York Street
Norfolk, Virginia 23510

Copies Furnished (with special conditions and plans):

Ms. L. K. (Mike) Gantt, Field
Supervisor
U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. Randy Cheek
National Marine Fisheries, NOAA
Habitat Conservation Division
Pivers Island
Beaufort, North Carolina 28516

Mr. Robert F. McGhee, Chief
Marine and Estuarine Branch
U.S. Environmental Protection Agency
Region IV
345 Courtland Street
Atlanta, Georgia 30365

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