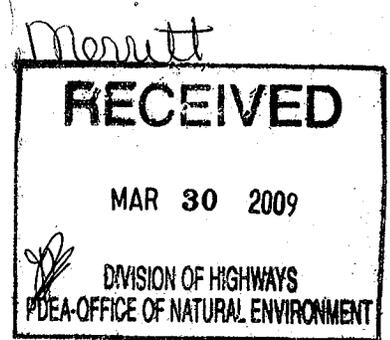




REPLY TO
ATTENTION OF:

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

March 16, 2009



Regulatory Division

Subject: Action ID No. 2003-00999, TIP No. R-513 Maxton Bypass, Robeson Counties, North Carolina.

Dr. Gregory J. Thorpe, Ph.D.
Environmental Management Director
Project Development & Environmental Analysis
1598 Mail Service Center
Raleigh, N.C. 27699-1598

Dear Dr. Thorpe:

I am responding to your request for a modification to the existing Department of the Army (DA) permit issued for the above referenced project on March 31, 2005.

The referenced Section 404 permit required compensatory mitigation for the unavoidable impacts to 62.87 acres of wetlands (5.53 acres of riverine and 57.34 acres of non-riverine wetlands) and 9,101 linear feet of warm water streams be provided by the North Carolina Ecosystem Enhancement Program (EEP). On March 7, 2006, as a result of an on-site field meeting with the Corps of Engineers and other resource agencies, it was agreed that NCDOT could pursue on-site mitigation at the Unnamed Tributary to the Lumber River Mitigation Site and the unnamed tributary to Little Jacob Swamp Mitigation Site.

I have determined that the proposed project modifications described above are not contrary to the public interest and therefore, the DA permit is hereby modified. The proposed modifications are as follows:

- 1. The permittee shall mitigate for 6,400 linear feet of unavoidable impact to streams with important aquatic function, associated with the R-513 project, by completing 3,260 linear feet of onsite priority II stream restoration at the Unnamed Tributary to the Lumber River Mitigation Site (Maxton Site) and 3,140 linear feet of onsite priority II stream restoration at the Unnamed Tributary to Jacob Swamp Mitigation Site (Jacob Site). The permittee shall monitor the mitigation sites for five year following completion of the mitigation project. Monitoring shall follow the Monitoring Level 1 protocol outlined in the "Stream Mitigation Guidelines", dated April 2003. If within any monitoring year, success criteria is not meet and remedial action required by the Corps of Engineers is performed, the five-year monitoring period of the affected portions of the stream will start again at monitor year one. The permittee will coordinate all remedial activities with the Corps of Engineers, Wilmington District, prior to taking any remedial action.**

2. The permittee shall mitigate for 2.43 acres of riverine wetlands impact associated with the R-513 project by the preservation of the 48.6 acres of riverine wetlands at the Maxton Wetland #1 Mitigation Site. Futhermore, 0.468 acre of non-riverine wetland impact shall be provided by the preservation of 1.4 acres of non-riverine wetlands at the Maxton Wetland #2 Mitigation Site, 0.75 acre of non-riverine wetlands at the Jacob Wetland #1 Mitigation Site and 0.19 acre of non-riverine wetlands at the Jacob Wetland #2 Mitigation Site.

3. The permittee and/or current and subsequent property owners shall maintain the mitigation sites, including their buffer, in their natural condition, as altered by work in the mitigation plans and as shown on the as-built plans, in perpetuity. Prohibited activities within the mitigation sites specifically include, but are not limited to: the construction or placement of roads, walkways, buildings, signs, or structures of any kind (i.e., billboards, interior fences, etc.); filling, grading, excavation, leveling, or any other earth moving activity or activity that may alter the drainage patterns on the property; the cutting, mowing, destruction, removal, or other damage of any vegetation; disposal or storage of any debris, trash, garbage, or other waste material; except as may be authorized by the mitigation plans, or subsequent modifications that are approved by the Corps of Engineers. In addition, the permittee shall take no action, whether on or off the mitigation property, which will adversely impact the wetlands or streams on the mitigation property, except as specifically authorized by the Corps of Engineers, or subsequent modifications that are approved by the Corps of Engineers, Wilmington District. This condition runs with the land. The permittee shall not sell, lease, or otherwise convey any interest in the mitigation property without subjecting the property to legally enforceable restrictions on the use of the property, to ensure its preservation in perpetuity. The instrument utilized to meet this condition must be approved in writing by the Wilmington District Corps of Engineers before execution.

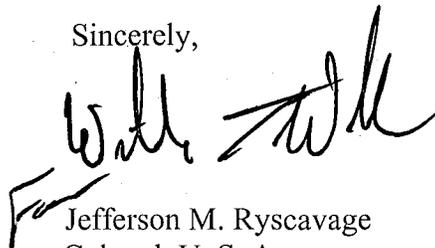
4. Special Condition 4 of the DA permit is hereby modified to read as follows:

Compensatory mitigation for the remaining unavoidable impacts to 59.97 acres of wetland and 2701 linear feet of stream associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP). The EEP will provide 312.9 acres of preservation of wetlands (26.44 acres of riverine and 286.46 acres of non-riverine wetlands) and 13,505 linear feet of stream preservation in the Southern Inner Coastal Plain Eco-Region at the Great Coharie Site in Sampson County that has been acquired and protected by the EEP and 57.293 acres of restoration of non-riverine wetlands, 5.287 acres of restoration of riverine wetlands and 2,701 linear feet of restoration of warm water stream channel in the Lumber River basin (Hydrologic Cataloging Unit 03040203).

Please note that all unmodified terms and conditions of your original Department of the Army permit and all previous modifications shall remain in effect.

Should you have any questions, please contact Mr. Richard Spencer, Wilmington Field Office, Regulatory Division, at telephone (910) 251-4172.

Sincerely,

A handwritten signature in black ink, appearing to read "Jefferson M. Ryscavage". The signature is written in a cursive style with a large initial "J" and "M".

Jefferson M. Ryscavage
Colonel, U. S. Army
District Commander

Copies Furnished:

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