



Michael F. Easley, Governor  
William G. Ross Jr., Secretary  
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director  
Division of Water Quality

April 1, 2003

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

Dear Dr. Thorpe:

Re: 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act,  
Proposed Ellerbe Bypass and Ellerbe Connector (NC 73 Extension) in Richmond and Montgomery Counties.  
WQC Project No. 000874

Attached hereto is a copy of Certification No. 3419 issued to The North Carolina Department of Transportation dated April 1, 2003.

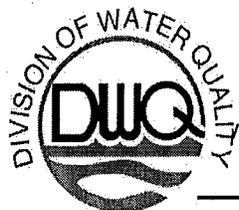
If we can be of further assistance, do not hesitate to contact us.

Sincerely,

Alan W. Klimek, P.E.

Attachments

cc: Wilmington District Corps of Engineers  
Corps of Engineers Wilmington Field Office  
DWQ Fayetteville Regional Office  
Central Files  
File Copy



**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. This certification authorizes the NCDOT to place fill material in 29.81 acres of jurisdictional wetlands and 7600 linear feet of streams in Richmond and Montgomery Counties. The project shall be constructed pursuant to the application dated February 14, 2003 to construct the Ellerbe Bypass (TIP R-2231) and the Ellerbe Connector (TIP R-3303) in Richmond and Montgomery Counties and the impacts shall occur as described below.

**Wetland Impacts in the Yadkin River Basin**

Section	Riverine (acres)	Non-Riverine (acres)	Total (acres)
Section A	8.01	4.28	12.29
Section B	5.68	2.38	8.06
Section CA	0.00	0.00	0.00
Section CB	6.02	0.00	6.02
R-3303	1.32	0.00	1.32
<b>Total</b>	<b>21.03</b>	<b>6.66</b>	<b>27.69</b>

**Wetland Impacts in the Lumber River Basin**

Section	Riverine (acres)	Non-Riverine (acres)	Total (acres)
Section A	0.00	0.00	0.00
Section B	0.25	0.00	0.25
Section CA	1.87	0.00	1.87
Section CB	0.00	0.00	0.00
R-3303	0.00	0.00	0.00
<b>Total</b>	<b>2.12</b>	<b>0.00</b>	<b>2.12</b>

**Surface Water Impacts for the Yadkin River Basin**

Section	Stream Impacts (linear feet)	Natural Channel Design (linear feet)	Offsite Mitigation Requirement (1:1 Ratio)
Section A	2335	0	2335
Section B	1854	0	1854
Section CA	0	0	0
Section CB	2693	676	2017
R-3303	367	0	367
<b>Total</b>	<b>7249</b>	<b>-676</b>	<b>6573</b>



**Surface Water Impacts for the Lumber River Basin**

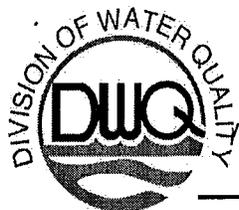
Section	Impacts (linear feet)	Ponds (acres)	On-Site Natural Channel Design (linear feet)	Mitigation Required
Section A	0	0		0
Section B	0	12.36	1066	-1066
Section CA	351	0		351
Section CB	0	0		0
R-3303	0	0		0
<b>Total</b>	<b>351</b>	<b>12.36</b>	<b>1066</b>	<b>-715</b>

The application provides adequate assurance that the discharge of fill material into the waters of Yadkin and Lumber River Basins 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. Should your project change, you are required to notify the DWQ and you may be required to 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 any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Corps of Engineers Permit, whichever is sooner.

**Condition(s) of Certification:**

1. 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" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standard (50 NTUs in all fresh water streams and rivers not designated as trout waters; 25 NTUs in all lakes and reservoirs, and all saltwater classes; and 10 NTUs in trout waters);
2. Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within two months of the Division of Land Resources has released the project;



3. If an environmental document is required, this Certification is not valid until a FONSI or ROD is issued by the State Clearinghouse. All water quality-related conditions of the FONSI or ROD shall become conditions of this Certification;
4. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
5. There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this permit without appropriate modification of this certification. Should waste or borrow sites be located in wetlands or stream, compensatory mitigation will be required since it is a direct impact from road construction activities.
6. All channel relocations will be constructed in a dry work area, and stabilized before stream flows are diverted. Channel relocations will be completed and stabilized prior to diverting water into the new channel. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30 foot wide wooded and an adjacent 20 foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating coir fiber and seedling establishment is allowable. Also, rip rap may be allowed if it is necessary to maintain the physical integrity of the stream, but the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage requested.
7. Compensatory mitigation of 55.38 acres shall be done for 27.69 acres of impacts to jurisdictional wetlands in the Yadkin River Basin. In addition, 2.45 acres of compensatory mitigation shall be provided to offset 2.12 acres of jurisdictional wetlands in the Lumber River Basin. The mitigation shall be provided as described below.

Mitigation Site	Acres of WL Debited from Site	Type of Mitigation	River Basin	Acres of Mitigation Credited
Key Branch Mitigation Site	55.38	Restoration	Yadkin	55.38
Myrick Pond Mitigation Site	2.45	Restoration	Lumber	2.45
<b>Total</b>				<b>57.83</b>

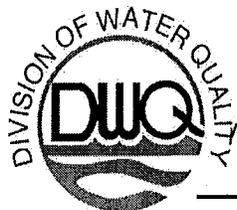
8. For the construction activities for the bridge located from Station 190+00 to 191+53, the NCDOT shall strictly adhere to sediment and erosion control Best Management Practices as described for High Quality Waters entitled "Design Standards in Sensitive Watersheds" (15A NCAC 04B .0024) throughout design and construction of the project.



9. Compensatory mitigation for impacts to streams shall be done for 7249 linear feet of stream impact in the Yadkin Basin and 351 linear feet of impact in the Lumber Basin, at a replacement ratio of 1:1. The mitigation shall be provided as described below.

Mitigation Site	Linear Feet of Streams Debited from Site	Type of Mitigation	River Basin	Acres of Mitigation Credited
Sites 3 & 6 in Section B	676	Onsite Restoration	Yadkin	676
Key Branch Mitigation Site	6183	Offsite Restoration	Yadkin	6183
Haithcock Mitigation Site	390	Offsite Restoration	Yadkin	390
Myrick Pond Site	351	Onsite Restoration	Lumber	351
<b>Total</b>				<b>7600</b>

10. A final plan for the Haithcock Mitigation Site shall be submitted, and written approval received from the NC Division of Water Quality, by October 1, 2003.
11. A final plan for the Key Branch Mitigation Site shall be submitted, and written approval received from the NC Division of Water Quality, by October 1, 2003.
12. No construction activities related to the section of the Ellerbe Connector (NC 73 Extension, TIP R-3303) located in Richmond County are authorized by this certification. Prior to any construction activities related to the Ellerbe Connector (NC 73 Extension, TIP R-3303) a modification to this certification is required. A submittal of a modification request, with seven copies, and corresponding fees will have to be submitted to the North Carolina Division of Water Quality.
13. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the Division of Water Quality upon completion of the project.
14. Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in disequilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ.
15. The permittee shall require its contractors (and/or agents) to comply with all of the terms of this certification, and shall provide each of its contractors (and/or agents) a copy of this certification.



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 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA 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 1<sup>st</sup> day of April 2003

DIVISION OF WATER QUALITY

Alan W. Klimek, P.E.  
Director

WQC No. 3419



**Certificate of Completeness**

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/Wetlands Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1621. 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: \_\_\_\_\_

**If this project was designed by a Certified Professional**

I, \_\_\_\_\_, as a duly registered Professional \_\_\_\_\_ (i.e., Engineer, Landscape Architect, Surveyor, ect.) 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 \_\_\_\_\_