



REPLY TO
ATTENTION OF

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



October 31, 1997

Regulatory Branch

Action ID No. 199706721



Mr. H. Franklin Vick, P.E., Manager
Planning and Environmental Branch
North Carolina Department of Transportation
Post Office Box 25201
Raleigh, North Carolina 27611-5201

Dear Mr. Vick:

Reference the Department of the Army (DA) permit issued to you on August 7, 1996, and your subsequent written request dated July 23, 1997, for a permit modification to construct interchange ramps within 1.14 acres of Section 404 wetlands (Ramp A: 0.74 acre; Ramp B: 0.40 acre) associated with the widening of 9.3 miles of U.S. 17, including replacement the bridges over the Chowan River and Pembroke Creek, from 0.5 miles west of the Chowan River to west of U.S. 17 Business, east of Edenton, Chowan and Bertie Counties, North Carolina (Tip Nos. R-2512A and R-2512B, State Project No. 8.T010602).

This modification request has been coordinated with the North Carolina Division of Water Quality, as well as other appropriate State and Federal agencies. This coordination revealed no objections to this modification request. Therefore, the permit is hereby modified to include the work as described above. It is understood that all other conditions of the original permit remain applicable and that the expiration date is unchanged. In addition, this permit modification is contingent on the following special permit conditions:

- a. NCDOT will mitigate the project impacts by restoring 2.39 acres of non-riverine wetlands at the Dismal Swamp Mitigation Site (DSMS) in Gates and Perquimans County. The mitigation work undertaken at the DSMS pursuant to the plan entitled, "Compensatory Mitigation Plan:

N.C. Department of Transportation US 17 Widening, Edenton to Hertford Traffic Improvement Project (TIP): R-2208A Chowan and Perquimans Counties, North Carolina", dated April 1995, and will be commenced immediately and implemented concurrently with all phases of construction activities authorized by this permit modification to the extent necessary to construct, monitor and maintain 2.39 acres of non-riverine wetlands to the satisfaction of the U.S Army Corps of Engineers. Any deviation from the mitigation site construction schedule must be approved by the Corps, Regulatory Division.

b. The permittee shall identify and survey the acreage at the DSMS utilized to satisfy condition (a.) above and provide a copy of the survey to the Corps, Washington Regulatory Field Office, NCDOT Project Manager, within 30 days of the date of this permit modification.

c. The mitigation properties will be maintained by the permittee in their natural condition, as altered by the implementation of the mitigation plan, in perpetuity. Prohibited activities within the mitigation areas specifically include, but are not limited to, the construction or placement of buildings, signs, or any debris, waste or garbage; excavation, grading; dredging; leveling or other earth moving activity; cutting, removal or damage of any vegetation; any activity which would impact the drainage or water quality on the site; except as required by the implementation of the mitigation plan, described in condition (a.) above.

d. Condition (c.) above runs with the land. The permittee shall not sell, lease, or otherwise convey any interest in the properties making up the mitigation sites without first providing 60 days written notice to the Corps the proposed conveyance. The instrument effecting such conveyance shall include legally binding restrictions on the use of the mitigation property as described in condition (a.) and (b.) above, to be enforceable by the permittee as well as the Corps, Wilmington District. The instrument establishing such restrictions shall be subject to the approval of the Corps. The permittee shall enforce the terms of the required restrictions.

e. Within two weeks of the date of this permit modification, the permittee shall provide the Corps, NCDOT Project Manager, Washington Regulatory Field Office, with an updated version of the "NCDOT Mitigation Ledger" documenting utilization of the Dismal Swamp Mitigation site.

Any questions regarding this correspondence may be directed to Mr. Michael Bell, NCDOT Project Manager at the Washington Regulatory Field Office, telephone (919) 975-1616, extension 26.

Sincerely,



Terry R. Youngbluth
Colonel, U.S. Army
District Engineer

Copies Furnished:

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

Mr. John Dorney
Division of Water
N.C. Department of Environment
and Natural Resources
Wetlands and Aquatic Plants
4401 Reedy Creek Road
Raleigh, North Carolina 27607

Mr. Larry Hardy
National Marine Fisheries Service
Pivers Island
Beaufort, North Carolina 28516

Mr. John M. Hefner
U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. William L. Cox, Chief
Wetlands Regulatory Section - Region IV
U.S. Environmental Protection Agency
61 Forsyth Street
Atlanta, Georgia 30365

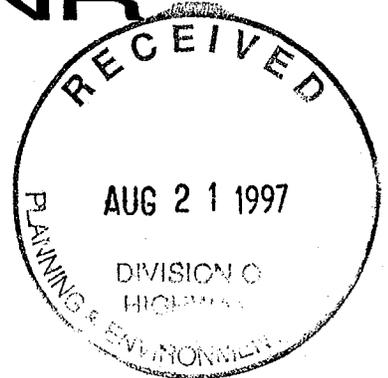
Mr. M. Randall Turner
N.C. Department of Transportation
Planning and Environmental Branch
Division 1 Environmental Officer
113 Airport Drive - Suite 100
Edenton, North Carolina 27932

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Water Quality

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
A. Preston Howard, Jr., P.E., Director



August 19, 1996/7



Mr. Franklin Vick
N.C. Dept. of Transportation
Planning and Environmental Branch
P.O. Box 25201
Raleigh, NC 27611-5201

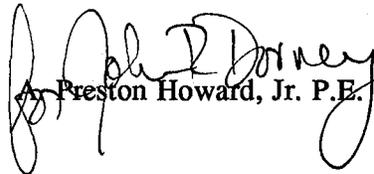
Dear Mr. Vick,

Re: Certification Pursuant to Section 401 of the Federal Clean Water Act,
Proposed Improvements to US 17 from west of the Chowan River to US 17 Business, east
of Edenton
Project #960280, COE #199400991
Bertie and Chowan Counties

Attached hereto is a copy of Certification No. 3066 issued to N. C. Department of
Transportation. This Certification replaces the one issued on 4 December 1996.

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

Sincerely,


A. Preston Howard, Jr. P.E.

Attachments

960280.wqc

cc: Wilmington District Corps of Engineers
Corps of Engineers Washington Field Office
Washington DWQ Regional Office
Mr. John Dorney
Mr. John Parker, Division of Coastal Management
Central Files

NORTH CAROLINA
Bertie and Chowan Counties

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 Environmental Management Regulations in 15 NCAC 2H, Section .0500 to N. C. Dept. of Transportation resulting in 18.45 acres of wetland impact and 0.22 acres of water impact in Bertie and Chowan Counties pursuant to an application filed on the 15th day of March and 21st day of November 1996 to improve US 17 from west of the Chowan River to US 17 business, east of Edenton, TIP No. R-2512.

The Application provides adequate assurance that the discharge of fill material into the waters of the Chowan River and Pembroke Creek and their tributaries in conjunction with the proposed development in Bertie and Chowan Counties 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.

Condition(s) of Certification:

1. That the activity be conducted in such a manner as to prevent significant increase in turbidity outside the area of construction or construction related discharge (50 NTUs in streams and rivers not designated as trout waters by DWQ; 25 NTUs in all saltwater classes, and all lakes and reservoirs; 10 NTUs in trout waters).
2. DOT shall strictly adhere to North Carolina regulations entitled, "Design Standards in Sensitive Watersheds" (15A NCAC 04B .0024) throughout construction of the bridge at the Chowan River. Turbidity curtains or casings shall be installed around any bottom disturbing activities and shall remain in place until sediments have settled. These curtains shall extend to the river bottom.
3. Neither DOT nor their contractors shall dredge work canals in the Chowan River.
4. Work barges shall be floated into place and then sunk. They shall not be sunk and then dragged into place.
5. Wet concrete shall not be allowed to contact water in Pembroke Creek, the Chowan River or any tributaries of these bodies of water.
6. Temporary construction access fill shall be removed immediately after construction has been complete in the area. If trees are removed. DOT shall revegetate with the same species (or others with DWQ approval) within one year after project completion.
7. If discharges of drilling fluids are proposed by DOT or their contractors, an NPDES permit should be obtained from DWQ.
8. If an upland diked disposal area with return water will be used, a 401 Certification will be needed (Nationwide 16).
9. Borrow and waste areas shall not be in wetlands.
10. Land clearing in wetlands shall conform to Method II (no clearing beyond toe of slope) except for those locations specified in the 21 November 1996 public notice.

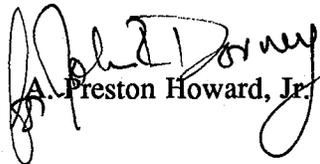
11. Surveys for submerged Aquatic Vegetation (SAV) shall be conducted prior to the initiation of construction activities in the Chowan River. The area shall again be surveyed immediately after completion of the bridge. A report detailing the findings shall be submitted to DWQ for review. If SAV's have been lost, the report shall also contain a mitigation plan to compensate for the losses. This mitigation plan must be approved by DWQ.
12. Compensatory wetland mitigation shall be in accordance with the Corps of Engineers. DWQ shall be copied on the approved ratio, location, size and method of debit (restoration, enhancement, creation and preservation).
13. Pursuant to your request of June 17, 1997, the subsidence which has occurred as a result of construction of each of the eleven haul-road offset areas, as well as anticipated subsidence in the foot print of the main haul road, shall be mitigated at the Company Swamp Mitigation Bank. The 2.6 acres of impact shall be compensated with 26.00 acres of preservation at CSMB.
14. Pursuant to your request of July 23, 1997 to impact an additional 1.14 acres of non-riverine, pine-dominated flatwood wetlands (0.87 acre mechanized clearing and filling, 0.27 acre mechanized clearing) your work is permitted provided that an additional 2.39 acres of non-riverine wetlands restoration shall be completed at the Dismal Swamp Mitigation Site.

Violations of any condition herein set forth shall result in revocation of this Certification. 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 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 18th day of August, 1997

DIVISION OF WATER QUALITY


A. Preston Howard, Jr. P.E.

WQC #3066