

Permit Class  
NEW

Permit Number  
166-00

STATE OF NORTH CAROLINA  
Department of Environment and Natural Resources  
and  
Coastal Resources Commission

# Permit

for

Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, P.O. Box 25201, Raleigh, NC 27611

Authorizing development in Tyrrell and Washington County at Kendrick Creek, Scuppernong R. & Tyrrell Co.

Drainage District Canal # 2, US 64, as requested in the permittee's application dated 9/27/00, including attached  
workplan drawings (28): 25 dated 9/22/00; 2 dated 12/21/99; and 1 undated.

This permit, issued on 10/30/00, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

### Excavation and Fill

- 1) Fill material placed in wetland and water areas will be clean and free of any pollutants, except in trace quantities.
- 2) No excavated or fill material will be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill area as indicated on the workplan drawing(s).
- 3) All fill material will be obtained from an upland source, except for that to be used at the onsite mitigation area for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

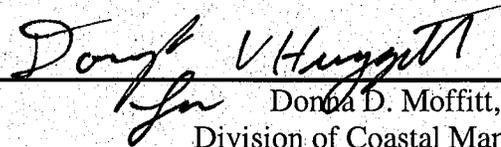
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2003

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



Donna D. Moffitt, Director  
Division of Coastal Management

This permit and its conditions are hereby accepted.

\_\_\_\_\_  
Signature of Permittee

**ADDITIONAL CONDITIONS**

- 4) The temporary placement or double handling of any excavated or fill material within waters or vegetated wetlands is not authorized.

**Conditions applicable to Kendrick Creek Crossing and Scuppernong River Crossing**

- 5) Should jetting or drilling of any bridge piles become necessary, a modification to this permit will be required.
- 6) Any pile installation practices shall be enclosed in turbidity curtains. The turbidity curtains are to be properly maintained and retained in the water until construction is complete.
- 7) Wet concrete shall not be allowed to contact waters of Kendrick Creek or the Scuppernong River. Water inside coffer dams or casings that has been in contact with wet concrete shall only be returned to the river when it no longer poses a threat to aquatic organisms.
- 8) The permittee shall remove all temporary work bridges, including piles, immediately after construction is completed.
- 9) In accordance with Condition Number 11 of Water Quality Certification No. 3302, installation and removal of pilings to support all the temporary and permanent bridges for the project shall result in no changes to the existing surface elevations. No material associated with the construction of the referenced bridges shall be deposited into or removed from jurisdictional wetlands and waters.
- 10) Any alteration to the proposed roadway alignment that affects the location of the proposed bridge locations will require permit modification.
- 11) Wetland areas to be cleared under the permanent and temporary bridges shall not be grubbed.

**Conditions applicable only to the Kendrick Creek Crossing**

- 12) In order to avoid adverse impacts to juvenile fish and shellfish, a moratorium for work instream and within adjacent wetlands will be in place from February 15th through June 30th of each year.
- 13) In accordance with Condition Number 13 of Water Quality Certification No. 3302, all pilings for the proposed permanent and temporary work bridges over Kendrick Creek shall be installed by using standard pile driving techniques and standard sediment containment methods. This condition does not apply to the installation of any bents outside jurisdictional areas. No material associated with the construction of the referenced permanent bridges and associated wetlands shall be deposited into or removed from jurisdictional wetlands and waters. Use of other pile installation practices is not authorized without first acquiring written approval from the North Carolina Division of Water Quality.

**ADDITIONAL CONDITIONS****Conditions applicable only to the Scuppernong River Crossing**

- 14) The Scuppernong River supports several species of anadromous fish. In accordance with Project Commitments made within the Final Environmental Impact Statement dated 10/6/99, the permittee will adhere to in-stream construction moratoria at all direct tributaries to the Albemarle Sound or designated anadromous spawning areas/nurseries. The permittee shall follow the officially adopted document titled "Stream Crossing Guidelines for Anadromous Fish Passage (May 12, 1997)". This document gives the accepted moratorium as February 15 to June 15. The project commitment further stated that the moratoria for each of the stream crossings will be established in consultation with the NC Division of Marine Fisheries. Therefore, permission to work within the accepted moratorium may be granted in consultation with the NC Division of Marine Fisheries and DCM.
- 15) All bridge construction shall be performed from work bridges or floating or sunken barges. Barges shall be floated into position and then sunk, not sunk and then dragged into place.
- 16) All excavated materials shall be confined above the Normal Water Level and landward of any wetlands behind adequate dikes or other retaining structures to prevent spill-over of solids into any wetlands or surrounding waters.
- 17) In accordance with Condition Number 12 of Water Quality Certification No. 3302, all pilings for the proposed permanent bridge over the Scuppernong River shall be installed by using standard pile driving techniques and standard sediment containment methods. This condition does not apply to the installation of any bents outside jurisdictional areas. No material associated with the construction of the referenced permanent bridges and associated wetlands shall be deposited into or removed from jurisdictional wetlands and waters. Use of other pile installation practices is not authorized without first acquiring written approval from the North Carolina Division of Water Quality.

**NOTE:**

The permittee is strongly encouraged to invite a representative of The Nature Conservancy to a preconstruction meeting for the Scuppernong River Crossing. As much as possible, the permittee shall satisfy concerns that The Nature Conservancy may have about environmental impacts to their property from this project. Possibilities include additional provisions for enhancing cross-drainage through this section of roadway.

**Tyrrell County Drainage District Canal No. 2 Crossing**

- 18) Any alteration to the proposed roadway alignment that affects the location of the proposed culvert crossing of Tyrrell County Drainage District No. will require permit modification.
- 19) Prior to any construction activity associated with culvert pipe replacement a silt curtain will be installed upstream and downstream of the project site and will remain in place for 24 hours after the project has been completed.
- 20) The proposed concrete headwalls must be structurally tight prior to backfilling to prevent seepage of fill materials into surrounding waters.

**ADDITIONAL CONDITIONS****Mitigation**

**NOTE:** This project will impact approximately 86.05 acres of jurisdictional wetlands, including approximately 78.75 acres of Pine Flat Woods and approximately 7.30 acres of non-riverine bottomland hardwood swamp. Wetland impacts include 76.16 acres of fill, 8.60 acres of mechanized clearing, 1.78 acres of non-mechanized clearing, 0.33 acres of excavation and 0.94 acres of drainage. This project will fill approximately 16.5 linear feet of streams.

**NOTE:** Compensatory mitigation for wetland impacts resulting from this project includes onsite mitigation for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County. Total on-site mitigation at this site will be approximately 6.13 acres. The permittee has agreed to mitigate for the remaining 79.912 acres of wetland impacts by purchasing 99.875 credits from the Great Dismal Swamp Mitigation Bank (GDSMB) Timberlake Tract in Tyrrell County. Each credit from the Timberlake Farm portion of the GDSMB represents 0.8 acres of restoration and 1.0 acres of preservation of peatland atlantic white cedar forest and non-riverine swamp forest.

- 21) The Great Dismal Swamp Mitigation Bank (GDSMB) is a multi-site bank. The mitigation bank credits for this project may only come from the Timberlake Farm portion of the GDSMB, which is contained entirely within Tyrrell County.
- 22) In accordance with an amendment to the 1996 Columbia/Tyrrell County Land Use Plan approved by the Tyrrell County Commissioners at a public hearing on June 6, 2000, the amount of wetland impacts occurring within Washington County that may be mitigated for within pre-existing wetland banks in Tyrrell County shall not exceed 75 acres.
- 23) Prior to the initiation of any construction activities, the permittee shall provide the NC Division of Coastal Management (DCM) with the following: (1) a copy of the Mitigation Banking Instrument (MBI) for the Great Dismal Swamp Mitigation Bank (GDSMB); and (2) a debit ledger for the GDSMB Timberlake Tract site. The debit ledger shall reflect that at least 99.875 of credits have been debited for this project, and shall show the remaining credits available at the site.
- 24) Prior to the initiation of any construction activities, the permittee shall provide DCM with a current progress report on implementation of the restoration plan as described in the document dated September 18, 1998 "Restoration Plan for Timberlake Farm, Columbia, North Carolina". The permittee or bank sponsor shall continue to provide progress reports to DCM on implementation of this restoration plan on an annual basis, or upon request.
- 25) The onsite mitigation for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County will be carried out as described in the document titled "mitigation plan for the restoration of the relict "ox-bow" wetland complex on existing US 64" submitted by the permittee to DCM in a letter dated October 17, 2000.
- 26) The permittee shall provide DCM with a vicinity map clearly depicting the location of the onsite mitigation for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County. The vicinity map shall be sufficient so that the mitigation site can be relocated in the future for compliance inspections.

**ADDITIONAL CONDITIONS**

- 27) The on-site mitigation for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County must be constructed concurrent with construction of this project. Subsequent monitoring must demonstrate that success criteria have been met prior to the end of the monitoring period. Written concurrence must be obtained from DCM, the NC Division of Water Quality, the NC Wildlife Resources Commission and the NC Division of Marine Fisheries prior to release of the mitigation site.
- 28) All mitigation sites will be protected in perpetuity in their restored, enhanced, or preserved states as appropriate according to the approved final mitigation plans and owned by the permittee or its approved designee. Failure to adequately protect mitigation sites may result in further mitigation requirements.
- 29) Temporary wetland impacts will occur during several aspects of project construction. The temporarily impacted wetlands are expected to naturally revegetate over time. However, due to the possibility that site alterations might prevent the temporary wetland impact area from re-attaining wetland jurisdictional status, the permittee shall provide an annual update on the wetland areas temporarily impacted by this project. This annual update will consist of photographs provided during the agency monitoring report meeting and a brief report on the progress of these temporarily impacted areas in re-attaining wetland jurisdictional status. Three years after project completion, the permittee shall schedule an agency field meeting with DCM, the NC Division of Water Quality and the NC Wildlife Resources Commission to determine if the wetland areas temporarily impacted by this project have re-attained jurisdictional wetland status. If at the end of 3 years the wetland areas temporarily impacted by this project have not re-attained jurisdictional wetland status, NC DOT and the above listed agencies shall determine whether a compensatory wetland mitigation plan will be required.

**Wildlife Crossings**

- 30) In accordance with Project Commitments made within the Environmental Impact Statement for this project dated 10/6/99, the permittee will provide appropriate wildlife crossing opportunities by constructing bridges at three sites to be determined from animal utilization studies. The wildlife crossing locations and design should be coordinated with the NC Wildlife Resources Commission prior to construction.

**Historical and Cultural Resource Protection**

- 31) The draft Memorandum of Agreement (MOA) between the United States Army Corps of Engineers and the North Carolina State Historic Preservation Officer must be finalized prior to the initiation of any construction activities, and all conditions contained therein must be adhered to. The draft MOA was submitted to the advisory council on historic preservation pursuant to 36 CFR Part 800.6(a) regarding the improvement of US 64 from NC 45 east of Plymouth to SR 1235 east of Columbia Washington and Tyrrell Counties, North Carolina, TIP No. R-2548, State Project No. 6.149001T.
- 32) In accordance with the draft MOA referenced in condition number 31 of this CAMA permit, the permittee will provide windbreak plantings along the ROW through the Mizell Farm and the Homestead Farm and in the viewshed of the Turner Farms. The plantings will include native plants commonly found along rural fence lines such as Yaupon Holly, Wax Myrtle, Red Maple, Loblolly Bay, Longleaf Pine, Pond Pine, Atlantic White Cedar, Tulip Tree and Bald Cypress.

**ADDITIONAL CONDITIONS**

- 33) In accordance with the draft MOA referenced in condition number 31 of this CAMA permit, the permittee will utilize large wire mesh fencing, composed of 4" squares and wooden posts, along their controlled access boundary.
- 34) In accordance with the draft MOA referenced in condition number 31 of this CAMA permit, prior to the purchase of right-of-way and construction, the permittee will stake the right-of-way and the Safety Zone (Clear Zone) limits through the Mizell Farm and the Homestead Farm so the owners may harvest saleable timber within this area. During construction, the permittee will protect the trees between the edge of right-of-way and the Safety Zone through the Mizell Farm and the Homestead Farm.
- 35) In accordance with the draft MOA referenced in condition number 31 of this CAMA permit, the permittee will regulate development in the area around the Mizell Farm, [from Station 42 to Station 47 as shown on the attached design plans dated July 5, 2000] by providing full control of access and if, in the future, there are applications for driveway or interchange permits between these two points, the permittee agrees to provide the State Historic Preservation Office with copies of the applications for their review and comment. To make sure this last stipulation is enacted, maps of the region between Station 42 to Station 47 will be integrated into the highway maps regularly reviewed by division and district engineers for driveway or interchange permits.

**Spoil Disposal Area**

- 36) The spoil disposal area must be inspected and approved by a representative of DCM prior to commencement of any excavation.
- 37) The permittee states that excavated material (muck) from the undercut area at the bridge abutment for the Scuppernong River crossing within R-2548F will be used to back fill the excavated area at the onsite mitigation area for non-riverine bottomland hardwood swamp near the relict oxbow channel in Tyrrell County. The excavated material must be suitable wetland or organic substrate compatible with the naturally occurring surrounding substrate. The permittee shall notify a representative from DCM's Washington District Office at (252) 946-6481 to provide DCM with an opportunity to inspect the excavated material for suitability prior to backfilling.

**NOTE:** The spoil disposal area(s) proposed for this project may produce a mosquito breeding problem. For information concerning appropriate mosquito breeding measures, the permittee is encouraged to contact the Public Health Pest Management Section at (252) 726-8970. The permittee should also contact the Mosquito Control Officer for Washington County at the Washington County Emergency Management office.

**Sedimentation and Erosion Control**

- 38) Appropriate sedimentation and erosion control devices, measures or structures must be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).

**ADDITIONAL CONDITIONS**

- 39) Prior to initiating any land-disturbing activities, a barrier line of filter cloth or other sedimentation and erosion control structures, devices or measures, must be installed between the land-disturbing activity and any adjacent marsh, wetland or open water area, until such time as the area has been properly stabilized with vegetated cover.
- 40) The cut or filled slopes shall be at an angle that can be retained by vegetative or other appropriate cover.
- 41) The permittee shall use Best Management Practices for the protection of Surface Waters and sedimentation and erosion control measures sufficient to protect aquatic resources.
- 42) This project must conform to all requirements of the NC Sedimentation Pollution Control Act and NC DOT's Memorandum of Agreement with the Division of Land Resources.
- 43) In order to protect water quality, runoff from construction must not visibly increase the amount of suspended sediments in adjacent waters.
- 44) All disturbed areas shall be properly graded and provided a ground cover sufficient to restrain erosion within thirty days of project completion.

**Stormwater Management**

- 45) The N.C. Division of Water Quality approved this project under stormwater management rules of the Environmental Management Commission under Stormwater Permit No. SW7001003 on 10/25/00. Any violation of the permit approved by the DWQ will be considered a violation of this CAMA permit.

**Threatened and Endangered Species**

**NOTE:** The permittee is strongly encouraged to contact the NC Natural Heritage Program at (919) 733-4181 to discuss possible impacts to threatened and endangered species of plants and animals as designated by the State of North Carolina, as well as high quality natural areas. The permittee is strongly encouraged to undertake protection measures recommended by the NC Natural Heritage Program to avoid or minimize any identified impacts.

**General**

- 46) Placement of rip rap shall be limited to the areas as depicted on the attached workplan drawings. The riprap material must be free from loose dirt or any pollutant. It must be of a size sufficient to prevent its movement from the site by wave or current action.
- 47) Culvert inverts shall be set at least one foot below normal bed elevation to allow for fish passage.

**ADDITIONAL CONDITIONS**

- 48) The relocation of any utility lines will require additional authorization, either by way of a modification of this permit or by the utility company obtaining separate authorization. In accordance with minutes from the February 1-2, 2000 NEPA/Section 404 Merger Team meeting for this project, the permittee has made a commitment that the utilities that require relocation will be contained within the construction limits or relocated in such a manner as to not impact wetlands. Of particular interest is the relocation of utilities within The Nature Conservancy property adjacent to the Scuppernon River.
- 49) If the permittee or its contractor determines that temporary access roads or detours are required, a modification to this permit will be required.
- 50) The permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities.
- 51) Construction staging areas shall be situated in uplands, specifically not in wetlands.
- 52) This permit does not authorize the interference with any existing or proposed federal project, and the permittee will not be entitled to compensation for damage to the authorized structure or work or injury which may be caused from existing or future operations undertaken by the United States in the public interest.
- 53) No attempt will be made by the permittee to prevent the free and full use by the public of all navigable waters at or adjacent to the authorized work. Use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
- 54) The N.C. Division of Water Quality has authorized the proposed project under Water Quality Certification No. 3302 (DWQ Project No. 000980), which was issued on 9/22/00. Any violation of the permit approved by the DWQ will be considered a violation of this CAMA permit.
- 55) The permittee and/or his contractor must contact a representative of DCM's Washington District Office at (252) 946-6481 prior to project initiation to schedule a pre-construction meeting.

**NOTE:** This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

**NOTE:** Any alteration to the proposed development, including but not limited to, relocation of the Tyrrell County Veterans Memorial Park, shall require submittal of revised permit drawings and shall require a modification or refinement of this permit.

**NOTE:** The permittee has assigned the proposed project TIP No. R-2548.