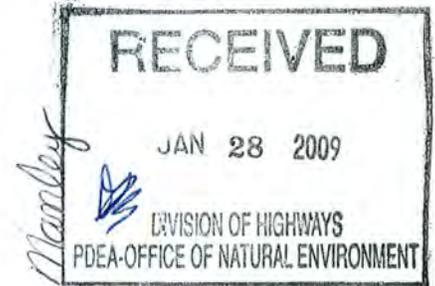




REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
69 DARLINGTON AVENUE
WILMINGTON, NORTH CAROLINA 28403-1343

January 22, 2009



Regulatory Division

Action ID SAW-2008-02460

Gregory J. Thorpe, Ph.D.
Environmental Manager Director
Project Development and Environmental Analysis Branch
N.C. Department of Transportation
1598 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

Enclosed is a Department of the Army permit to construct on new location the final section of Crescent Road (TIP R-2719A), starting from an intersection with existing US 70 east of Falling Creek and continuing northeast approximately four miles on new location to the intersection of US 258 and existing Crescent Road. The project is located west of Kinston in Lenoir County.

Any deviation in the authorized work will likely require modification of this permit. If a change in the authorized work is necessary, you should promptly submit revised plans to the Corps showing the proposed changes. You may not undertake the proposed changes until the Corps notifies you that your permit has been modified.

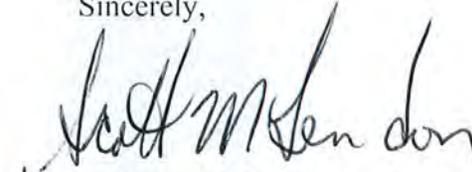
Carefully read your permit. The general and special conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant conditions require that:

- a. You must complete construction before December 31, 2013.
- b. 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.

You must notify this office in advance as to when you intend to commence and complete work.

You should address all questions regarding this authorization to William Wescott in the Washington Regulatory Field Office at (252) 975-1616, extension 31.

Sincerely,


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

Enclosures

Copy Furnished (with enclosures):

Chief, Source Data Unit
NOAA/National Ocean Service
ATTN: Sharon Tear N/CS261
1315 East-West Hwy., Rm 7316
Silver Spring, Maryland 20910-3282

Copy Furnished (with special conditions and plans):

Mr. Ronald J. Mikulak, Chief
Wetlands Regulatory Section
61 Forsyth Street
Atlanta, Georgia 30303

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

Mr. Ron Sechler
National Marine Fisheries Service
Pivers Island
Beaufort, North Carolina 28516

Mr. Doug Huggett
Division of Coastal Management
N.C. Department of Environment
and Natural Resources
400 Commerce Avenue
Morehead City, North Carolina 28557

Mr. David Rackley
National Marine Fisheries Service
219 Fort Johnson Road
Charleston, South Carolina 29412-9110

RECEIVED

JAN 15 2009

REGULATORY
WILM.FLD.OFC.

DEPARTMENT OF THE ARMY PERMIT

Permittee **North Carolina Department of Transportation, Gregory J. Thorpe, Ph.D.**

Permit No. **SAW 2008-02460**

Issuing Office **CESAW-RG-W**

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: The proposed T.I.P. project R-2719 Section A involves constructing a divided multi-lane, full control of access freeway, interchanges at locations with major traffic movements, and grade separations at minor crossroads and railroads. The project is approximately 4 miles long starting east of Falling Creek on US 70, and going northeast on new location to US 258 to tie in with the northern section of Crescent Road west of Kinston, Lenoir County. The T.I.P. R-2719 Section A project would permanently impact 12.05 acres of jurisdictional wetlands and 2,363 linear feet of stream. The project would temporarily impact 1.50 acres of jurisdictional wetlands and 1,227 linear feet of stream.

Project Location: This project involves the construction of the final section of Crescent Road starting from US 70 east of Falling Creek and continuing northeast approximately four miles on new location to the intersection of US 258 and existing Crescent Road. The project is located west of Kinston in Lenoir County.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **December 31, 2013**. 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 SPECIAL CONDITIONS

Further Information:

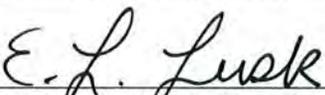
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries 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.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
 5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

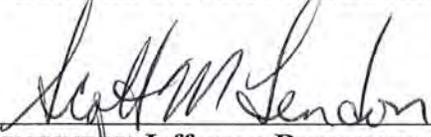
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit, Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


 _____ 1-12-09
 (PERMITTEE) **North Carolina Department of Transportation** (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


 _____ 23 January 2009
 (DISTRICT ENGINEER) **Jefferson Ryscavage, COLONEL** (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

 (TRANSFEE) (DATE)

SPECIAL CONDITIONS (Action ID. SAW 2008-02460; NCDOT/TIP R-2719A)

COMPLIANCE WITH PLANS

- a) All work must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to the permit plans must be approved by the USACE prior to implementation.
- b) This authorization is only for TIP R-2719 Section A.

ACTIVITIES NOT AUTHORIZED

- c) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, nor shall any activities take place that cause the degradation of waters or wetlands. In addition, except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within, into, or out of waters or wetlands or to reduce the reach of waters or wetlands.

This permit does not authorize temporary placement or double handling of excavated or fill material within jurisdictional waters, including wetlands, outside the permitted area. Additionally, no construction materials or equipment will be placed or stored within jurisdictional waters, including wetlands.

CONSTRUCTION PLANS

- d) The Permittee will ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Written verification shall be provided to Washington Regulatory Field Office that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Washington Regulatory Field Office prior to any active construction in waters or wetlands.
- e) Prior to commencing construction within jurisdictional waters of the United States for any portion of the proposed project, the Permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings will be acceptable.

POLLUTION SPILLS

- f) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other

toxic materials. No equipment staging or storage of construction material will occur in wetlands. Hydro-seeding equipment will not be discharged or washed out into any surface waters or wetlands. In the event of a spill of petroleum products or any other hazardous waste, the Permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

NOTIFICATION

g) The Permittee shall advise the Corps in writing at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

CLEAN FILL MATERIAL

h) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

CONTRACTOR COMPLIANCE

i) The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, and any authorized modifications. A copy of this permit, and any authorized modifications, including all conditions, shall be available at the project site during construction and maintenance of this project.

SEDIMENTATION AND EROSION CONTROL MEASURES

j) The Permittee shall use 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" to assure compliance with the appropriate turbidity water quality standard. Erosion and sediment control practices must 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 standards. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to aquatic resources. These measures must be inspected and maintained regularly, especially following rainfall events. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

The Permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.

No fill or excavation for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless it is included on the plan drawings and specifically authorized by this permit.

REPORTING OF VIOLATIONS

k) The Permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager, within 24 hours of the Permittee's discovery of the violation.

COMPLIANCE WITH SPECIAL CONDITIONS

l) Failure to institute and carry out the details of these special conditions, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

PRECONSTRUCTION MEETING

m) The Permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The Permittee shall provide the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, with a copy of the final plans at least two weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The Permittee shall schedule the preconstruction meeting for a time when the Corps of Engineers and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The Permittee shall invite the Corps and NCDWQ Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

BORROW AND WASTE

n) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the Permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The Permittee shall

provide the Corps of Engineers with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the Permittee has that information. The Permittee will coordinate with the Corps of Engineers before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. All jurisdictional wetland boundaries on borrow and waste sites shall be verified by the Corps of Engineers and shown on the approved reclamation plans. The Permittee shall ensure that all such areas comply with Special Condition c) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the Special Condition c). All information will be available to the Corps of Engineers upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

MITIGATION

o) Compensatory mitigation for the unavoidable impacts to 2.70 acres of riverine wetlands, 9.35 acres of non-riverine wetlands, and 2,363 linear feet of stream associated with the proposed project shall be provided as outlined in the following table.

Project Impacts		Required Mitigation			
Type	Area	Type	Location	Ratio	Credits Required
Riverine	2.7 acres	Restoration	Banks School Rd. Site 2 (on-site)	1:1	0.68 acres
			Jeffery's Warehouse (off-site)	2:1	4.04 acres
Non-Riverine	9.35 acres	Restoration	Casey-King (off-site)	2:1	13.18 acres
			Jeffery's Warehouse (off-site)	2:1	5.52 acres
Stream	2,363 linear feet	Restoration	Banks School Rd. Site 1 (on-site)	1:1	2,077 feet
			Banks School Rd. Site 2 (on-site)	1:1	286 feet

On-site mitigation will be in accordance with the Banks School Road Stream and Wetland Mitigation Site Plan dated January 8, 2008. Wetland mitigation success criteria will include the following. Vegetation success shall be measured by survivability over a 5-year period. Survivability will be based on 320 planted stems/acre after three years and 260 planted stems/acre after five years. Hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils

within 12 inches of the ground surface for at least 12.5 percent of the growing season. The hydrologic monitoring shall occur over a 5-year period.

p) The Permittee owns Jeffery's Warehouse, and Banks School Rd. Sites 1 & 2 for the purpose of providing wetland and stream mitigation. The Permittee shall maintain the mitigation sites identified above in their natural condition, as altered by the mitigation plans, in perpetuity. Except as authorized or required by the mitigation plan, prohibited activities on the mitigation properties include, but are not limited to, filling; grading; excavating; earth moving of any kind; construction of roads, walkways, buildings signs, or any other structure; any activity that may alter the drainage patterns on the property; destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material. In addition, the Permittee shall take no action, whether on or off the mitigation properties, which will adversely impact the streams and/or wetlands on the mitigation properties.

q) Condition (p), above, runs with the land. The Permittee shall not sell, lease, or otherwise convey any interest in the mitigation properties without subjecting the properties to legally enforceable restrictions on the use of the properties, to ensure its preservation, approved in writing by the Wilmington District Corps of Engineers.