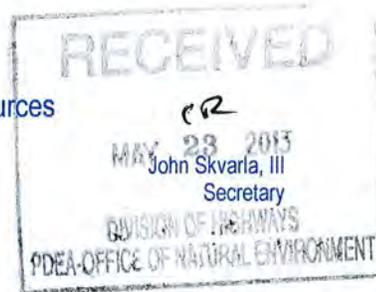




North Carolina Department of Environment and Natural Resources

Division of Water Quality
Charles Wakild, P. E.
Director

Pat McCrory
Governor



May 16, 2013

Dr. Greg Thorpe, PhD., Manager
Project Development and Environmental Analysis
North Carolina Department of Transportation
1598 Mail Service Center
Raleigh, North Carolina, 27699-1598

Subject: Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and Neuse Buffer Rules with ADDITIONAL CONDITIONS for the proposed southern section of Crescent Road from US 70 to US 258 in Lenoir County, Federal Aid Project No. STP-224(3) State Project No. 8.2200101, TIP No. R-2719A.
DWQ Project No. 20080314 v.2
WQC003763

Dear Dr. Thorpe:

Attached hereto is a modification of Certification No. 003763 issued to The North Carolina Department of Transportation (NCDOT) dated October 28, 2008.

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

Sincerely,

Charles Wakild
Director

Attachments

cc: Tom Steffens, US Army Corps of Engineers, Washington Field Office (electronic copy only)
Chris Manley, NCDOT, Natural Environment Section (electronic copy only)
Chris Militscher, Environmental Protection Agency (electronic copy only)
Travis Wilson, NC Wildlife Resources Commission (electronic copy only)
Jason Elliott, NCDOT, Roadside Environmental Unit (electronic copy only)
Beth Harmon, North Carolina Ecosystem Enhancement Program
Phillip Ayscue, NCDOT, Office of Inspector General (electronic copy only)
Garcy Ward, NCDWQ Washington Regional Office (electronic copy only)
File Copy

Transportation and Permitting Unit
1650 Mail Service Center, Raleigh, North Carolina 27699-1650
Location: 512 N. Salisbury St. Raleigh, North Carolina 27604
Phone: 919-807-6300 \ FAX: 919-807-6488
Internet: www.ncwaterquality.org

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**Modification to the 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act
and Neuse River Buffer Rules**

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 (NCDWQ) Regulations in 15 NCAC 2H .0500 and 15A NCAC 2B .0233. **This certification does not authorize any additional impacts to streams, wetlands, or riparian buffer areas and only addresses mitigation requirements.**

The application provides adequate assurance that the discharge of fill material into the waters of the Neuse River Basin 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 modified application dated received May 8, 2013. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 28, 2008 still apply except where superceded by this certification. Should your project change, you are required to notify NCDWQ and 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 on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Conditions of Certification:

1. This modification is applicable only to the additional proposed activities. All of the authorized activities and conditions of certification associated with the original Water Quality Certification dated October 28, 2008 still apply except where superceded by this certification.
2. Due to design changes at Banks School Road Site 1, and as outlined in the "As Built Report for Wetland and Stream Restoration on R-2719A, Lenoir County, TIP Project No. R-2719A," dated April 29, 2013, the amount of available Neuse River riparian buffer credits available has been reduced by 95,609 ft² in Zone 1. We understand that you have chosen to perform compensatory mitigation for this deficit to protected buffers through use of the North Carolina Ecosystem Enhancement Program (EEP). Mitigation for unavoidable impacts to Neuse Riparian Buffers shall be provided in the Neuse River Basin and done in accordance with 15A NCAC 2B .0242(9). EEP has indicated in a letter dated April 16, 2013 that they will assume responsibility for satisfying the compensatory mitigation requirements for the above-referenced project, in accordance with EEP's Mitigation Banking Instrument signed July 28, 2010.

Violations of any condition herein set forth may 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 you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission.
The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919)-431-3000, Facsimile: (919)-431-3100

A copy of the petition must also be served on DENR as follows:

Mr. Lacy Presnell, General Counsel
Department of Environment and Natural Resources
1601 Mail Service Center

This the 16th day of May 2013

DIVISION OF WATER QUALITY

A handwritten signature in blue ink, appearing to read "Charles Wakild".

Charles Wakild
Director

WQC No. 003763