



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

November 25, 2003

MEMORANDUM TO: Mr. H. Allen Pope, P.E.
Division 3 Engineer

FROM: *for* Philip S. Harris, III, P.E., Manager *PHS*
Office of the Natural Environment
Project Development and
Environmental Analysis Branch

SUBJECT: New Hanover County, Wilmington – Smith Creek Parkway
from Harnett Street to 0.85 km East of 23rd Street; Work Order
Numbers 8.2250110 and 8.2250108; TIP Numbers U-92A & B

Attached are the modified U. S. Army Corps of Engineers Individual Permit, the DWQ 401 Water Quality Certification and the CAMA permit for the above referenced project. All environmental permits have been received for the construction of this project.

PSH/eah

Attachment

cc: Ms. Debbie Barbour, P.E.
Mr. Omar Sultan
Mr. Jay Bennett, P.E.
Mr. David Chang, P.E.
Mr. Randy Garris, P.E.
Mr. Greg Perfetti, P.E.
Mr. Mark Staley
Mr. Mr. John F. Sullivan, III, FHWA
Mr. Mason Herndon, Division 3 Environmental Officer

PROJECT COMMITMENTS

New Hanover County
Smith Creek Parkway from the Northeast Cape Fear River to 0.5 mile East of 23rd Street
Federal Project MAM-M-5851(2) & MANHS-0332(8)
State Project 8.2250101
TIP No. U-92A&B

Division 3 Construction, Roadside Environmental Unit, Structure Design Unit, Project Development & Environmental Analysis (PDEA), Roadway Design Unit, Hydraulics Unit

All conditions stated in the original 404, 401, and CAMA permits, and modifications to those permits, remain in full force and effect.

Additional Conditions

Division 3 Construction, Roadside Environmental Unit

Construction will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. 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 standard.

- a. The erosion and sediment control measures for the project must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Sediment and Erosion Control Planning and Design Manual. These devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
- b. For borrow pit sites, the erosion and sediment control measures must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Surface Mining Manual. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.

Division 3 Construction, Roadside Environmental Unit

All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the Division of Land Resources has released the project.

Division 3 Construction

Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened.

Division 3 Construction, PDEA

There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with the Water Quality Certification (WQC) without appropriate modification

of the WQC. 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.

PDEA

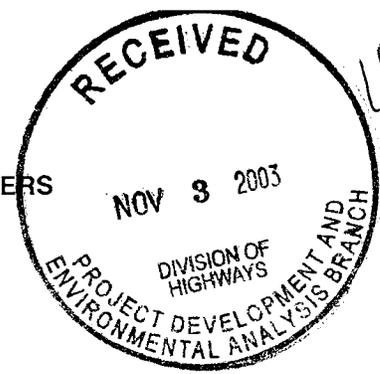
No additional compensatory mitigation shall be done in accordance with the WQC modification.



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS

P.O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

October 31, 2003



IN REPLY REFER TO

Regulatory Division

Action ID No. 199603836 and TIP Project U-92AB, Smith Creek Parkway, New Hanover County, North Carolina.

Dr. Gregory J. Thorpe, Ph.D.
Environmental Management Director, PDEA
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

Dear Dr. Thorpe:

Please reference the Department of the Army permit issued on December 12, 2000 for the subject project and your letter dated September 11, 2003 requesting a permit modification to extend the expiration date of this permit.

The referenced DA permit authorized 6.9 acres of permanent wetland impacts and 875 feet of permanent stream impacts associated with Smith Creek and its tributaries, to construct a four-lane divided highway on a new location from 23rd Street to Third Street, Wilmington, New Hanover County, North Carolina. The permanent wetland impacts include 5.5 acres of Coastal Plain Bottomland Hardwood and 1.4 acres of Tidal Cypress-Gum Swamp Forest. The permanent stream impacts include 344 feet in the A section and 531 feet in the B section. This permit is scheduled to expire on December 31, 2003.

You have requested a permit modification to extend the expiration date to December 2005 to coincide with the anticipated completion date of this project.

Your DA permit is hereby modified to extend the expiration date of this permit to December 31, 2005 to coincide with the anticipated completion of this project.

All other conditions of your Department of the Army permit shall remain in full force and effect.

Should you have any questions, please contact Mr. Dave Timpy, Wilmington Field Office, Regulatory Division, at telephone (910) 251-4634.

Sincerely,



for
Charles R. Alexander, Jr.
Colonel, U.S. Army
District Engineer

Copies Furnished:

Mr. Allen Pope, P.E.
North Carolina Department of Transportation
Division 3
124 Division Drive
Wilmington, North Carolina 28401

Mr. John Dorney
NCDENR-DWQ
Wetlands Section
1650 Mail Service Center
Raleigh, NC 27699-1650

Mr. Doug Huggett
Division of Coastal Management
1638 Mail Service Center
Raleigh, NC 27699-1638



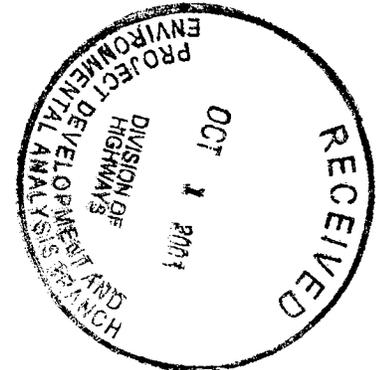
Michael F. Easley, Governor
William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality
Coleen H. Sullins, Deputy Director
Division of Water Quality

HMH
AS

September 26, 2003

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



Dear Dr. Thorpe:

Re: Certification Pursuant to Section 401 of the Federal Clean Water Act,
Modification to the construction of Smith Creek Parkway (sections A & B), TIP U-092A/B, State Project No.
8.2250102, WQC Project No. 001045 and 011117 (DWQ No. for original application 001045).
New Hanover County

Attached hereto is a modification to Certification No. 3304 issued to the North Carolina Department of Transportation on September 29, 2000. The attached modification authorizes an extension of the expiration date for the 401 Water Quality Certification concurrent with the extension of the federal 404 permit. The 401 Water Quality Certification issued on September 29, 2000, and all subsequent modifications issued to the referenced project shall expire on June 30, 2006, or upon expiration of the 404 or CAMA permit. This modification is applicable only to the extension of the expiration date. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated September 29, 2000, and all other corresponding modifications still apply except where superceded by this certification.

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

Sincerely,

Alan W. Klimek, P.E.
Director

Attachments:

Modification to WQC No. 3304

cc: Wilmington District Corps of Engineers
Corps of Engineers Wilmington Field Office
DWQ Wilmington Regional Office
Cathy Brittingham, Division of Coastal Management
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 Water Quality Certification represents a modification to Certification No. 3304 issued to the North Carolina Department of Transportation on September 29, 2000. The modification authorizes an extension of the expiration date for the 401 Water Quality Certification concurrent with the extension of the federal 404 permit. The 401 Water Quality Certification issued on September 29, 2000, and all subsequent modifications issued to the referenced project shall expire on June 30, 2006, or upon expiration of the 404 or CAMA permit. This modification is applicable only to the extension of the expiration date. All the authorized activities and conditions of certification associated with the original Water Quality Certification dated September 29, 2000, and all other corresponding modifications still apply except where superseded by this certification.

The application provides adequate assurance that the discharge of fill material into the proposed wetlands 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 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 total wetland fills for this project (now or in the future exceed one acre, 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.

Condition(s) of Certification:

1. Construction will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. 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 standard.
 - a. The erosion and sediment control measures for the project must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Sediment and Erosion Control Planning and Design Manual. These devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
 - b. For borrow pit sites, the erosion and sediment control measures must equal or exceed the proper design, installation, operation and maintenance outlined in the most recent version of the North Carolina Surface Mining Manual. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
2. All sediment and erosion control measures placed in wetlands or waters shall be removed and the natural grade restored after the Division of Land Resources has released the project;
3. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;



4. There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this permit without appropriate modification of this permit. 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;
5. No additional compensatory mitigation shall be done in accordance with this modification.
6. All other conditions written into previous Water Quality Certifications for this project still apply.

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 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 26th day of September 2003
DIVISION OF WATER QUALITY

Alan W. Klimek, P.E.
Director

Modification to WQC No. 3299

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Permit Class
RENEWAL

Permit Number
178-00

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, 1548 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in New Hanover County at Smith Creek, Highway Corridor between 23rd
Street and 3rd Street, Wilmington. as requested in the permittee's application letter dated 10/1/03.

This permit, issued on 10/20/03, 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.

U-92 A/B, Smith Creek Parkway

- 1) This renewal must be attached to the original of Permit No. 178-00, which was issued on 11/28/00, as well as all subsequent modifications and/or letters of refinement, and all documents must be readily available on site when a Division representative inspects the project for compliance.
- 2) All conditions and stipulations of the active permit remain in force under this renewal.

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.

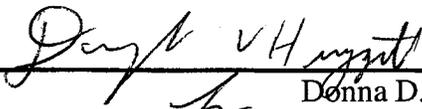
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2005

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