



DEPARTMENT OF THE ARMY  
WILMINGTON DISTRICT, CORPS OF ENGINEERS

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

May 19, 1997

IN REPLY REFER TO

Regulatory Branch

Action ID No. 199706153



Mr. Harvey Lewis  
E.R. Lewis Construction Company, Inc.  
Post Office Box 565  
Greenville, North Carolina 27835

Dear Mr. Lewis:

Please reference your May 8, 1997, meeting with Mr. Scott McLendon of my staff at a proposed borrow and waste area located on Stargazer Lane, north of NC Highway 24, near Morehead City, North Carolina. The purpose of this meeting was to inspect the approximately 10 acre tract for wetlands subject to Department of the Army (DA) permitting authority. It is our understanding that, if found to be suitable, sand from this site will be used for the Bridges Street project in Morehead City (TIP U-2226).

The site visit revealed that approximately 0.3 acres of wetlands adjacent to Hull Swamp had been mechanically cleared and spoil material placed in the wetland area. As discussed with you, this activity without prior DA authorization is a violation of Section 404 of the Clean Water Act (33 USC 1311). During this meeting, you agreed to restore the affected area to pre-project elevations and to confine all proposed borrow and waste activities above the flagged wetland/upland boundary. Provided this remedial action is completed within 30 days of your receipt of this letter, we will consider the matter closed and further legal or administrative action will not be pursued.

You should be aware that we consider impacts to wetlands from borrow and waste sites to be a component of the impact to wetlands from the transportation project for which the material is used. Furthermore, if these activities will impact wetlands, it is the responsibility of the North Carolina Department of Transportation (NCDOT) to request modification of any DA permit.

No DA permit will be required to place waste material from the project on the previously filled area on the north side of the property. You are cautioned that any encroachment into the swamp forest adjacent to the filled area will result in an immediate directive to cease all further work in wetlands on this property and the Bridges Street Extension, if this site is utilized for that project. It is incumbent upon you to take all necessary measures to prevent unconfined material from entering or being placed into the wetland area adjacent to the proposed waste area or borrow pit.

If you have any questions regarding this correspondence, please contact Mr. Scott McLendon in the Wilmington Regulatory Field Office at (910) 251-4725.

Sincerely,

Clifford Winefordner  
Chief, South Section  
Regulatory Branch

Copies Furnished:

✓ Mr. H. Franklin Vick, P.E., Manager  
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Post Office Box 25201  
Raleigh, North Carolina 27611-5201

Mr. Dwayne Alligoode, Resident Engineer  
North Carolina Department of Transportation  
601 S. Glenburnie Road  
New Bern, North Carolina 28560

Mr. Charles Jones, District Manager  
Morehead City Regional Office  
North Carolina Division of  
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Hestron Plaza Two  
151-B Highway 24  
Morehead City, North Carolina 28557

Mr. John Dorney  
Division of Water Quality  
North Carolina Department of  
Environment, Health, and  
Natural Resources  
4401 Reedy Creek Road  
Raleigh, North Carolina 27611-7687

**From:** Alice Gordon  
**To:** DIV02.DAlligood  
**Date:** 5/28/97 3:28pm  
**Subject:** U-2226 Bridges Stree Extension

I talked to Byron Engle today and briefed him on the following:

We received a copy of letter from the Corps of Engineers to Harvey Lewis regarding a meeting between Mr. Lewis and Mr. Scott McLendon of the COE on May 8, 1997. Letter was dated May 19, 1997. Apparently Mr. Lewis had asked Scott to come out and delineate some wetlands prior to use as a borrow site. When Scott arrived he noted that Mr. Lewis had mechanically cleared and placed spoil material in about 0.3 acres of wetlands adjacent to Hull Swamp. The gist of the letter was "clean it up and restore to original contours within 30 days and all will be forgiven". Please let me know if this has been attended to. Do I need to come out and inspect the site?

The letter also identified an area to the north of the project that the COE said was suitable for waste material placement. However, Scott warned that if there is **ANY ENCROACHMENT** on the adjacent swamp forest that the COE will issue a CEASE AND DESIST ORDER for the entire project. We advise that a substantial fence be placed on the edge of the waste disposal area - but not in the wetland. On another project (R-2000CA) we fenced off the wetlands with combo of orange fence and silt curtain. Do you need suggestions?

Let me know if we can help in any way. Thank you.

**CC:** GCashin, DIV02.BEngle