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FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
October 18, 2011 08:09:21 AM
Book 3931 Page 335-388
FEE: \$182.00
INSTRUMENT # 2011013136



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STATE OF NORTH CAROLINA

P.I.N. # 953303433013

COUNTY OF MOORE

PREPARED BY Tammy A. Bouchelle
& Assistant Attorney General
RETURN TO: North Carolina Department of Justice
1505 Mail Service Center
Raleigh, North Carolina 27699-1505

**CONSERVATION EASEMENT AND EASEMENT OF INGRESS AND EGRESS
IN PERPETUITY**

This Conservation Easement and Easement of Ingress and Egress in Perpetuity (the "Conservation Easement") is granted on this 6th day of October, 2011, by **LR HUNT CLUB, LLC**, having an address of 115 Drake Street, P.O. Box 1741, Fayetteville, North Carolina 28302 ("Grantor"), to the **NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**, its successors and assigns, having an address of 1598 Mail Service Center, Raleigh, North Carolina 27699-1598 ("NCDOT" or "Grantee").

The designation Grantor and Grantee (collectively, the "Parties") as used herein shall include said Parties, their heirs, successors, agents, executors, administrators, grantees, devisees, licensees, invitees, assigns, and/or all other successors as their interests may appear, and shall include singular, plural, masculine, feminine or neuter as required by context.

WHEREAS:

Grantor is the sole owner in fee simple of certain real property more particularly described in those Deeds recorded in Book 1400, Page 327; Book 2394, Page 251, and Book 3564, Pages 266 of the Moore County Registry, which consists of approximately 320 acres, more or less, located in Little River Township, Moore County, North Carolina (the "Property").

The Property possesses natural, wetland, scenic, open space, educational, and/or recreational values of great importance. In particular, the Property includes: (i) over 200 acres of wetlands subject to regulation under the Clean Water Act (the "jurisdictional wetlands"); (ii) approximately 43 acres of drained jurisdictional wetlands; (iii) Sandhills vegetation, including large stands of Atlantic White Cedar; and (iv) riparian land adjacent to the Little River. The specific conservation values of the Property are documented in two reports of relevant features of the Property — a "Phase I Environmental Site Assessment" of the Property and a "Biological and Wetlands Assessment for Proposed Mitigation Site" — on file at the offices of NCDOT and consisting of text, maps, photographs, and other documentation (the "Baseline Documentation"). The Baseline Documentation is specifically incorporated by reference as if the same were fully set forth herein.

Grantor is willing to grant to NCDOT a perpetual conservation easement over the entire Property consisting of approximately 320 acres (the "Conservation Easement Area"), thereby restricting and limiting the use of lands and waters within the Conservation Easement Area to the terms and conditions and for the purposes hereinafter set forth. Grantor further grants to NCDOT a permanent ingress/egress access easement (the "Permanent Access Easement") to the Conservation Easement Area upon and along the Property as more particularly set forth hereinafter.

NCDOT is an agency of the State of North Carolina whose purpose includes the construction of transportation projects for public use and who has the authority to acquire land and interests in land for the purpose of mitigating the environmental impacts of these transportation projects.

The purposes of the Conservation Easement are to preserve, restore, enhance, and maintain the natural features and wetland functions on the Property consistent with the dictates of Federal and State agencies pursuant to permits from said agencies necessary for NCDOT road projects: to provide habitat for native plants and animals; to improve and maintain water quality; to control runoff of sediment; to use the Conservation Easement Area for activities included in, but which are not limited to, those activities included in the mitigation plan pertaining to the Conservation Easement Area, which plan is on file with NCDOT; to prevent any use of the Conservation Easement Area that will significantly impair or interfere with these purposes; to protect the mitigation activities performed by NCDOT within the Conservation Easement Area; and to maintain permanently the dominant woodland, scenic, and natural character of the Conservation Easement Area designated on the Property as hereinafter described (the purposes set forth in this paragraph are collectively referred to as the "conservation values").

NCDOT and Grantor recognize the conservation values of the Conservation Easement Area, and have the common goal of the perpetual conservation and protection of the Conservation Easement Area. Grantor intends for the conservation values of the Conservation Easement Area to be preserved and maintained, and further, Grantor intends to convey to NCDOT the right to enforce the preservation and protection of the conservation values of the Conservation Easement Area in perpetuity.

The conservation purposes of this Conservation Easement are recognized by the Uniform North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. § 121-34 *et seq.*, which provides for the enforceability of restrictions, easements, covenants or conditions "appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use," N.C.G.S. § 121-35(1); and which provides for tax assessment of lands subject to such agreements "on the basis of the true value of the land and improvement less any reduction in value caused by the agreement," N.C.G.S. § 121-40.

NOW, THEREFORE, for good and valuable consideration acknowledged by both Grantor and NCDOT, and in consideration of the mutual promises, covenants, terms, conditions and restrictions contained herein, Grantor hereby grants and conveys unto NCDOT and its successors or assigns forever and in perpetuity: (i) a Conservation Easement of the nature and character and to the extent hereinafter set forth, situated in Moore County, North Carolina, as more particularly described in **EXHIBIT A**; and (ii) a Permanent Access Easement more particularly described herein and depicted in **EXHIBIT B**. Exhibits A and B are attached hereto and are specifically incorporated herein by reference as if the same were fully set forth herein. All subsequent references to the Conservation Easement shall include, where appropriate, references to the Permanent Access Easement.

The terms, conditions and restrictions of the Conservation Easement are as hereinafter set forth:

1. Grant Of Conservation Easement

Grantor hereby voluntarily grants and conveys to NCDOT, and NCDOT hereby voluntarily accepts, a perpetual Conservation Easement, which is an immediately vested interest in real property of the nature and character described herein. Grantor agrees that it will not perform, nor knowingly allow others to perform, any act on or affecting the Conservation Easement Area that is inconsistent with the covenants herein.

Grantor agrees that it will not perform, nor knowingly allow others to perform, any act on or affecting the Conservation Easement Area that is inconsistent with the Army Corps of Engineers' Permit (#199300570) issued to NCDOT on October 4, 2002. A true and correct copy Permit #199300570 issued by the Army Corps of Engineers is attached hereto as **EXHIBIT C** and is specifically incorporated herein by reference as if the same were fully set forth herein. Grantor authorizes NCDOT to enforce these covenants in the manner described below.

Grantor hereby voluntarily grants and conveys to NCDOT all development rights for the Conservation Easement Area, except as otherwise reserved and provided by the terms of this Conservation Easement, that are now or hereafter inherent in the Conservation Easement Area. The Parties agree that the development rights in the Conservation Easement Area are terminated and extinguished, and may not be used on or transmitted to the subject Property, as it is now described or as the Property may be described in the future, or to any other property.

Grantor hereby voluntarily grants and conveys to NCDOT the right to conduct periodic controlled burns, in NCDOT's discretion, for the purpose of enhancing the conservation values of the Conservation Easement Area.

2. Perpetual Duration

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land and is enforceable by NCDOT against Grantor. Every provision of this Conservation Easement that applies to Grantor or NCDOT shall also apply to their respective agents, heirs, executors, administrators, assigns, grantees, devisees, licensees, and/or all other successors as their interests may appear. This Conservation Easement is enforceable regardless of any subdivision, partition, or conveyance of the Property or any portion thereof.

3. Description Of Conservation Easement Area

The Conservation Easement Area is located on the Property, as more particularly described in **EXHIBIT A**, and is comprised of approximately 320 acres.

4. Access

Grantor hereby grants and conveys to NCDOT, in perpetuity, the right to access the Conservation Easement Area from Lakebay Road (SR 2023). This Permanent Access Easement provides NCDOT with access to the Conservation Easement Area from any point where SR 2023 and the Conservation Easement Area meet, including via a soil logging road, as more fully depicted in the attached map at **EXHIBIT B**.

NCDOT and its authorized representatives at all reasonable times and continuing in perpetuity, shall have the right to access the Conservation Easement Area for the purpose of undertaking activities to protect, restore, manage, maintain, or enhance the conservation values of the Conservation Easement Area, and for the purpose of inspecting the Conservation Easement Area to determine if Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. Additionally, NCDOT shall have the right to access and to use the Conservation Easement Area as necessary to complete the activities required by the Remediation Plan. A true and correct copy of the Remediation Plan is attached hereto as **EXHIBIT D** and is specifically incorporated by reference as if the same were fully set forth herein. NCDOT will notify Grantor by phone, email, or other correspondence before entering the Conservation Easement Area. However, if NCDOT, in its sole discretion, determines that

circumstances require immediate entry, NCDOT is not required to notify Grantor prior to entry, but will notify Grantor within two business days of such entry.

Nothing herein shall be construed to allow members of the general public access to the Property without Grantor's consent.

5. Rights And Responsibilities Retained By The Grantor

Subject to the terms and restrictions contained herein, Grantor reserves to and for itself and its successors the customary rights and privileges of ownership, including, but not limited to, the right to quiet enjoyment of the Conservation Easement Area; the rights to sell, lease, encumber, impose restrictions on and devise the Conservation Easement Area, provided such transaction is subject to the terms of this Conservation Easement and written notice is provided to NCDOT pursuant to Paragraph 19, together with any rights not specifically prohibited by or limited by this Conservation Easement, and not inconsistent with the conservation values and purposes of this Conservation Easement. Unless otherwise specified herein, nothing in this Conservation Easement shall require Grantor to take any action to restore the condition of the Conservation Easement Area after any Act of God. Grantor understands that nothing in this Conservation Easement relieves it of any obligation or restriction on the use of the Conservation Easement Area imposed by law.

Prior to performing any maintenance or construction in the Conservation Easement Area, Grantor must submit a written plan to NCDOT (Natural Environment Unit) detailing the proposed maintenance and/or construction activities. Grantor may not perform any maintenance or construction activities in the Conservation Easement Area whatsoever until Grantor receives written approval of the submitted plan from NCDOT.

6. Subdivision

Without the express written permission of NCDOT, the Conservation Easement Area may not be subdivided, partitioned or conveyed from the Property by Grantor except in its current configuration as an entity or block of the Property.

7. Permitted And Restricted Activities

Any activity on, or use of, the designated Conservation Easement Area that is inconsistent with the conservation values and purposes of this Conservation Easement and/or the Army Corps of Engineers' Permit (#199300570) issued to NCDOT (Exhibit C) is prohibited. However, Grantor retains the right to engage in passive recreational uses of the Conservation Easement Area (requiring no surface alteration of the land and posing no threat to the conservation values set forth herein), including, but not limited to, walking, fishing, hunting or animal and plant observation, as long as such activity is consistent with the conservation values and purposes of this Conservation Easement. The Conservation Easement Area shall be maintained in its natural, scenic, and open condition and restricted from any activity that would impair or interfere with the conservation values of the Conservation Easement Area. Any use or activity that causes or is

likely to cause soil degradation, erosion, and/or pollution of any surface or sub-surface waters is prohibited. Any rights not expressly reserved by Grantor have been acquired by NCDOT.

Without limiting the foregoing, the following activities and uses are expressly prohibited, restricted, or reserved as indicated hereunder:

A. *Disturbance of Natural Features*

Any changes, disturbance, alteration or impairment of the natural, scenic, and aesthetic features of the Conservation Easement Area or any introduction of non-native plants and/or animal species is prohibited unless NCDOT gives its prior written consent or unless otherwise expressly permitted herein.

B. *Agricultural, Grazing, Horticultural Use and Fencing*

Agricultural, grazing, and horticultural uses, including landscaping, of the Conservation Easement Area are prohibited. No herbicides, insecticides, fungicides, fertilizers or other potentially harmful substances may be used in the Conservation Easement Area without advance written permission from NCDOT. No agricultural products or by-products may be dumped, stored, or disposed of within the Conservation Easement Area or within 100 feet in any direction of any pond, stream, tributary, lake, watercourse, spring, seep, or wetlands on the Property. Existing fences may be repaired and replaced by Grantor. NCDOT or its representatives may install fencing around the perimeter of the Conservation Easement Area. Grantor will be responsible for maintaining any fences installed pursuant to this subparagraph. The establishment or maintenance of any feedlot is prohibited.

C. *Silvicultural Use and Land Clearing*

There may be no destruction or cutting of trees or plants in the Conservation Easement Area, except upon written approval of NCDOT. The gathering of firewood in the Conservation Easement Area shall be limited to dead trees, such that the gathering is consistent with the conservation values and other purposes of this Conservation Easement. Removal of large live trees, thinning of the forest, or removal of brush for fire management may be allowed in some cases, provided that any such request is consistent with the conservation values and other purposes of this Conservation Easement and Grantor obtains prior written approval from NCDOT and the U.S. Army Corps of Engineers before undertaking any of these activities. However, Grantor may remove fallen, damaged, hazardous, or dangerous trees (e.g., hanging limbs, split trees, leaning trees, dead trees, trees damaged by wind, ice or snow, trees struck by lightning, and other hazardous conditions) if, in the discretion of Grantor, such trees pose a safety or maintenance issue.

D. *Dumping and Storage*

Dumping, disposal, or storage of soil, trash, refuse, debris, ashes, garbage, waste, abandoned vehicles or parts, appliances, machinery, hazardous substances, toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials within the Conservation Easement Area is prohibited. No agricultural products, by-products, or equipment may be dumped, stored or disposed of within the Conservation Easement Area or within 100 feet in any direction of any pond, stream, tributary, lake, watercourse, spring, seep, or wetlands on the Property. Grantor shall be responsible for removing any dumped or stored material within the Conservation Easement Area.

E. *Mineral Use, Excavation, and Dredging*

There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, sod, minerals or other materials; no exploration for, or development and/or extraction of minerals and hydrocarbons by any methods; and/or no change in the topography of the land in any manner within the Conservation Easement Area, or on adjacent property if owned by the Grantor or his successors, which would cause erosion or siltation within the Conservation Easement Area.

F. *Industrial Use*

Industrial activities within the Conservation Easement Area are prohibited.

G. *Residential Use*

Residential use of the Conservation Easement Area is prohibited.

H. *Commercial Use*

Commercial activities within the Conservation Easement Area are prohibited.

I. *Construction, Roads, Road Building, and Motorized Vehicles*

There shall be no road, building, shed, facility, mobile home, or other structure constructed or placed within the Conservation Easement Area unless specifically set forth in this Conservation Easement. Motorized vehicles, including off-road vehicles, are prohibited within the Conservation Easement Area. However, NCDOT expressly reserves the right to install, operate, or maintain structures or unpaved roads, and to use motorized vehicles for the purpose of reestablishing, protecting, and enhancing the conservation values of the Conservation Easement Area, upon the consent of the U.S. Army Corps of Engineers.

J. *Signs*

No signs shall be permitted within the Conservation Easement Area except interpretive signs describing activities and the conservation values of the Conservation Easement Area, signs identifying the owner of the Property and the holder of the Conservation Easement, and signs giving directions or prescribing rules and regulations for the use of the Conservation Easement Area, which shall specifically include "No Trespassing," "No Hunting," and "Posted" signs, if applicable.

K. *Utilities*

The installation of utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities, is prohibited. If there are existing utility easements located within the Conservation Easement Area or affecting the Conservation Easement Area, Grantor shall notify NCDOT if right-of-way clearing or other work within the Conservation Easement Area is scheduled or performed by any utility. Any such clearing should be minimized to the extent practicable and performed in a manner consistent with the principles of permanently protecting the conservation values of the Conservation Easement Area.

L. *Water Quality and Drainage Patterns*

Grantor shall conduct no activities in the Conservation Easement Area that would be detrimental to water quality or to any of the plants, animals, or habitats within the Conservation Easement Area or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Conservation Easement Area, or cause soil degradation or erosion. Diking, dredging, alteration, draining, filling, or removal of wetlands, ponds, water courses, tributaries, lakes or streams by Grantor is prohibited. In addition, Grantor is prohibited from diverting or causing or permitting the diversion of surface or underground water into, within, or out of the Conservation Easement Area by any means; polluting or discharging into waters, springs, seeps, ponds, watercourses, streams, tributaries, lakes or wetlands; or using pesticides or biocides in the Conservation Easement Area unless agreed to in writing by NCDOT.

M. *NCDOT's Rights*

NCDOT, on behalf of itself and its authorized representatives, reserves the right to use the Conservation Easement Area in any way necessary, consistent with the terms herein, to undertake any activities to protect, restore, manage, maintain, or enhance the conservation values of the Conservation Easement Area. NCDOT specifically reserves the right to use the Conservation Easement Area in the future for additional mitigation or conservation activities that further the conservation values of the Conservation Easement Area. NCDOT will notify the U.S. Army Corps of Engineers in the event it seeks to use the Conservation Easement Area for additional mitigation credits and, upon request, will provide a copy of the mitigation plan to the Corps of Engineers.

8. Ongoing Responsibilities Of The Grantor

Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantor as owner of the Property and Conservation Easement Area. Among other things, this shall apply to:

A. *Taxes*

Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If NCDOT is ever required to pay any taxes or assessments on its interest in the Conservation Easement Area, Grantor will reimburse NCDOT for the same.

B. *Upkeep and Maintenance*

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to ownership, operation, upkeep, and maintenance of the Property. Further, Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

C. *Liability and Indemnification*

Grantor agrees to indemnify and hold NCDOT harmless from any and all costs, claims or liability, including, but not limited to: personal injury, accidents, negligence or damage relating to the Property, or any claim arising there from, including attorneys' fees, unless due to the intentional negligence of NCDOT or its agents, in which case liability shall be apportioned accordingly. Grantor agrees to indemnify and hold NCDOT harmless from any and all costs, claims or liability, including, but not limited to: personal injury, accidents, negligence or damage relating to the Property, or any claim arising there from, including attorneys' fees, unless due to the negligence, or intentional or willful conduct, of NCDOT or its agents, in which case liability shall be apportioned accordingly. The Parties acknowledge that NCDOT is an agency and Department of the State of North Carolina and has no known ability to give or provide any indemnity to any party whatsoever. Further, NCDOT enjoys the State's sovereign immunity except as expressly waived by the North Carolina Tort Claim Act, Article 31 of Chapter 143 of the General Statutes of North Carolina, and may be liable only as therein provided.

9. Enforcement

NCDOT shall have the right to prevent violations and remedy violations of the terms of this Conservation Easement through judicial action, which shall include, but is not limited to, the right to bring proceedings in law or in equity against any party or parties attempting to violate, or who has violated, the terms of this Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the conservation values of the Conservation Easement Area, NCDOT shall give Grantor written notice of any violation and thirty (30) days to cure before commencing legal proceedings. If a court with jurisdiction

determines that a violation may exist, is occurring or has occurred, NCDOT may seek to obtain an injunction to stop the violation, temporarily or permanently. The Parties agree that a court may issue an injunction or order requiring Grantor to restore the Conservation Easement Area to its condition prior to the violation, as restoration of the Conservation Easement Area may be the only appropriate remedy.

Additionally, NCDOT has the right to prevent any activity on, or use of, the Conservation Easement Area that is inconsistent with any federal or state environmental permit requirements applicable to the Property. NCDOT has the right to require the restoration and/or remediation of any and all conservation values damaged by any activity or use of the Conservation Easement Area that is inconsistent with any federal or state permit requirements applicable to the Property. In any case where a court finds that a violation of this Conservation Easement has occurred, Grantor shall reimburse NCDOT for all expenses incurred in stopping and/or correcting the violation, including, but not limited to: court costs, attorneys' fees, damages for losses for environmental or conservation values, and any other costs and fees associated with the restoration and/or remediation of the Conservation Easement Area. If legal action is brought by NCDOT and a court finds that no violation has occurred, each party shall bear its own costs. The failure of NCDOT to discover a violation or to take immediate legal action shall not bar NCDOT from doing so at a later date for that violation or any subsequent violations.

Grantor shall have concurrent jurisdiction and authority for the enforcement of the conditions, restrictions, and prohibitions on the use of the Property and the Conservation Easement Area, and other terms covenants and conditions of this Conservation Easement, as to any person or entity other than NCDOT. The enforcement authority of NCDOT and Grantor may be exercised jointly and severally by them, in their discretion. Any forbearance, delay, or omission by either NCDOT or Grantor to exercise enforcement rights hereunder shall not be deemed or construed to be a waiver of any right of enforcement by either Party.

10. Transfer Of Easements

NCDOT shall have the right to transfer this Conservation Easement and Permanent Access Easement, provided the transferee expressly agrees to assume the responsibility imposed on the transferring party or parties by this Conservation Easement. As a condition of such transfer, NCDOT shall require that the conservation values and purposes intended to be advanced hereunder shall continue to be carried out.

11. Transfer Of The Property

Grantor agrees that in the event the Property or any portion thereof is transferred, it will provide advance notification to NCDOT in writing of the names and addresses of any party to whom the Property is to be transferred pursuant to the notification procedure in Paragraph 19.

Grantor agrees to incorporate by reference the terms of this Conservation Easement in any deed or other legal instrument by which it transfers or divests itself of any interests, including leasehold interests, in all or a portion of the Conservation Easement Area. Failure of Grantor to

comply with this Paragraph shall not impair the validity of this Conservation Easement and Permanent Access Easement as to successor owners or interest holders in the Property or limit the enforceability of this Conservation Easement and Permanent Access Easement in any way, nor shall Grantor's failure to comply with this Paragraph constitute a default under this Conservation Easement.

12. Amendment Of Easements

The Conservation Easement and/or Permanent Access Easement may be amended by a written instrument executed by both NCDOT and Grantor. Any such amendment shall be consistent with the conservation values and other purposes of this Conservation Easement and its terms and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded Office of the Moore County Register of Deeds.

13. Procedure In The Event Of Changed Conditions

The grant or donation of this Conservation Easement gives rise to a property right immediately vested in NCDOT, with a fair market value equal to the proportionate value that the Conservation Easement Area bears to the value of the Property as a whole. The proportionate value of NCDOT's property rights shall remain constant. If a change in conditions occurs, which makes impossible or impractical any continued protection of the Conservation Easement Area for conservation purposes by NCDOT (a "Changed Condition"), NCDOT may relinquish or transfer by written instrument all or any portion of this Conservation Easement and the restrictions contained herein. NCDOT may extinguish all or any portion of this Conservation Easement and the restrictions contained herein by appropriate judicial proceeding.

NCDOT shall be entitled to a portion of the proceeds of any sale, exchange, involuntary conversion of the Property, or any damage award with respect to any proceeding or transfer commenced by or against Grantor, which portion shall be equal to the proportionate value of NCDOT's interest in the Conservation Easement Area as it bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement Area, or any damages otherwise awarded as a result of judicial proceedings.

14. Procedure In The Event Of Condemnation Or Eminent Domain

Whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Conservation Easement (a "Taking"), Grantor shall immediately give notice to NCDOT and shall take all appropriate actions at the time of such Taking or sale to recover the full value of the Taking and all incidental or direct damages resulting from the Taking. Any proceeds recovered in such actions shall be divided in accordance with the

proportionate value of Grantor's and NCDOT's interests as specified herein; all expenses including attorneys' fees incurred by Grantor and NCDOT in such action shall be paid out of the recovered proceeds to the extent not paid by the condemning authority. NCDOT, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Such portion shall be equal to the proportionate value that NCDOT's, its successor's and assign's interest in the Conservation Easement Area bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement Area, or any damages otherwise awarded as a result of judicial proceedings, minus Grantor's expenses from such transactions or proceedings.

15. Interpretation

This Conservation Easement shall be interpreted under the laws of the State of North Carolina, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to the conservation values and other purposes sought to be protected herein.

16. Severability

Invalidity of any of the covenants, terms, provisions or conditions of this Conservation Easement, or any part thereof, or the application thereof to any person or circumstance, by court order or judgment, shall in no way affect the validity of any of the other provisions hereof, which shall remain in full force and effect.

17. Venue And Forum

The Parties agree that all actions or proceedings arising in connection with this Conservation Easement shall be tried and litigated exclusively in the Superior Court of Wake County, North Carolina. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation with respect to or arising out of this Conservation Easement in any jurisdiction other than that specified in this Paragraph. In the event of litigation, each Party waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Paragraph, and stipulates that the Superior Court of Wake County, North Carolina shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this Conservation Easement. Each Party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this Paragraph by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set forth in Paragraph 19. Any final judgment rendered against a Party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

18. Waiver Of Certain Defenses

Grantor hereby waives any defense of laches, estoppel, or prescription.

19. Notices

Any notices required by this Conservation Easement shall be in writing and shall be personally delivered or sent by United States mail, First Class postage pre-paid to ensure delivery to the Parties at the following addresses, unless a Party has been notified in writing by the other of a change of address:

To Grantor:

Mr. James J. Barnes, Jr.
Member/Manager, LR Hunt Club, LLC
115 Drake Street
P.O. Box 1741
Fayetteville, North Carolina 28302

To NCDOT:

North Carolina Department of Transportation
Attn: Manager, Project Development and Environmental Analysis Branch
1598 Mail Service Center
Raleigh, North Carolina 27699-1598

AND

North Carolina Department of Transportation
Attn: Director, Pre-Construction
1598 Mail Service Center
Raleigh, North Carolina 27699-1598

In any provision of this Conservation Easement in which Grantor is required to provide advance notice to NCDOT of any activity on the Property, such notice shall be given not less than thirty days prior to the planned commencement of the activity. If NCDOT's approval is required, such approval shall be deemed withheld unless NCDOT provides to the Grantor written notice of approval within thirty (30) days of receipt of said request. If Grantor has received no response after said thirty (30) days, Grantor may send additional written notices to NCDOT requesting a statement of the reasons for the disapproval. The failure of NCDOT to respond does not convey or constitute approval for the requested activity.

20. Grantor's Title Warranty

Grantor covenants and represents that Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Property and Conservation Easement Area are free and clear of any and all encumbrances, save (i) that certain Conservation Easement dated July 13, 1998, by and between Sandhills Area Land Trust and North Carolina Department of Transportation, which is found at Deed Book 1400, Page 329 of the Moore County Registry, and located in Little River Township; and (ii) that certain conservation easement dated September 17, 2003, between Sandhills Area Land Trust and Guyencourt, LLC, which is found at Deed Book 2394, Page 255 of the Moore County Registry, and located in Little River Township. Grantor and NCDOT understand that the two Conservation Easements referenced in this paragraph will be extinguished in the future. Grantor shall warrant and defend the title against the lawful claims of all persons whomsoever; that there is legal access to the Property and the Conservation Easement Area; and Grantor covenants that NCDOT shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid easements conveyed.

21. Subsequent Liens

No provisions of this Conservation Easement should be construed as impairing the ability of Grantor to use the Conservation Easement Area as collateral for subsequent borrowing. Any such liens shall be subordinated to this Conservation Easement.

22. Subsequent Easements/Restrictions

The grant of any easements, uses, or use restrictions that might diminish or impair the conservation values of the Conservation Easement Area is prohibited. Any such uses, easements, or restrictions shall be subordinated to this Conservation Easement and Permanent Access Easement.

23. Grantor's Environmental Warranty

Grantor warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable federal and state law, and hereby promises to defend and indemnify NCDOT against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release of hazardous waste caused by an intentional or negligent act, omission, or violation of federal, state or local environmental laws or regulations by Grantor. Without limiting the generality of the foregoing, nothing in this Conservation Easement shall be construed as giving rise to any right or ability in NCDOT, nor shall NCDOT have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

24. Liberal Interpretation

Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purpose of N.C.G.S. § 121-34 *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

25. Recording

The NCDOT shall record this instrument and any amendment hereto in a timely fashion with the Office of the Register of Deeds of Moore County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

26. Merger

The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

27. No Waiver

Enforcement of this Conservation Easement shall be at the discretion of the NCDOT and any forbearance by NCDOT to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be deemed or construed to be a waiver by NCDOT of such term or of any subsequent breach of the same or of any other term of this Conservation Easement or of NCDOT's rights. No delay or omission by NCDOT in exercise of any right or remedy shall be construed as a waiver of any such right or remedy.

28. Entire Agreement

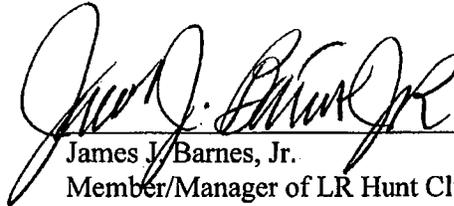
This instrument sets forth the entire agreement of the Parties with respect to the Conservation Easement and supersedes all prior or contemporaneous discussions, negotiations, understandings or agreements relating to this Conservation Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with the paragraph entitled Amendment of Easements (Paragraph 12).

The burdens of this Conservation Easement shall run with the Property and shall be enforceable against Grantor and all future parties who have an interest in the Property in perpetuity.

TO HAVE AND TO HOLD this Conservation Easement unto the NCDOT, its successors and assigns, forever, this Conservation Easement together with all and singular the appurtenances and privileges belonging or in any way pertaining thereto.

IN WITNESS WHEREOF, the Grantor and NCDOT, intending to legally bind each other, have set their hands on the date first written above.

GRANTOR:
LR HUNT CLUB, LLC

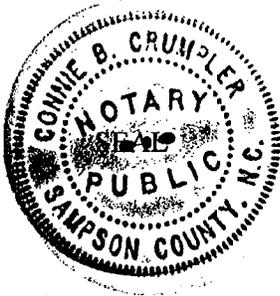
 (SEAL)
James J. Barnes, Jr.
Member/Manager of LR Hunt Club, LLC

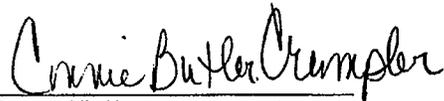
Attest:

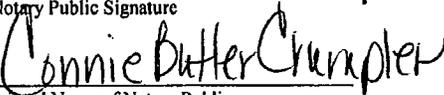
NORTH CAROLINA
Lincolnton COUNTY

Personally appeared before me, the undersigned authority in and for the said county and state, on this 6th day of October, 2011, the within named James J. Barnes, Jr., who acknowledged to me that he is a member/manager of LR Hunt Club, LLC, a member-managed limited liability company, and as member of said limited liability company, and as the act and deed of said limited liability company, he executed the above and foregoing instrument, after first having been duly authorized by said limited liability company so to do.

Witness my hand and official stamp or seal this the 6th day of October 2011.




Notary Public Signature


Printed Name of Notary Public

My commission expires: May 6, 2012

ACCEPTED:

GRANTEE:

**NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION**

Virgil R. Pridemore (SEAL)
Signature

Virgil R. Pridemore
Printed Name

Manager of Right-of-Way Branch
Title

NORTH CAROLINA
Wake COUNTY

I, Crystal Best, a Notary Public of Johnston County, North Carolina, do hereby certify that Virgil R. Pridemore personally came before me this day and acknowledged that he is the Manager of Right-of-Way Branch for the North Carolina Department of Transportation, an agency of the State of North Carolina, and that by authority duly given, he executed the foregoing instrument.

Witness my hand and official stamp or seal this 12th day of October, 2011.

SEAL

Crystal Best
Notary Public Signature

Crystal Best
Printed Name of Notary Public

My commission expires: April 20, 2015



EXHIBIT A

CONSERVATION EASEMENT AREA

Conservation Easement Area - (320 acres, more or less) -

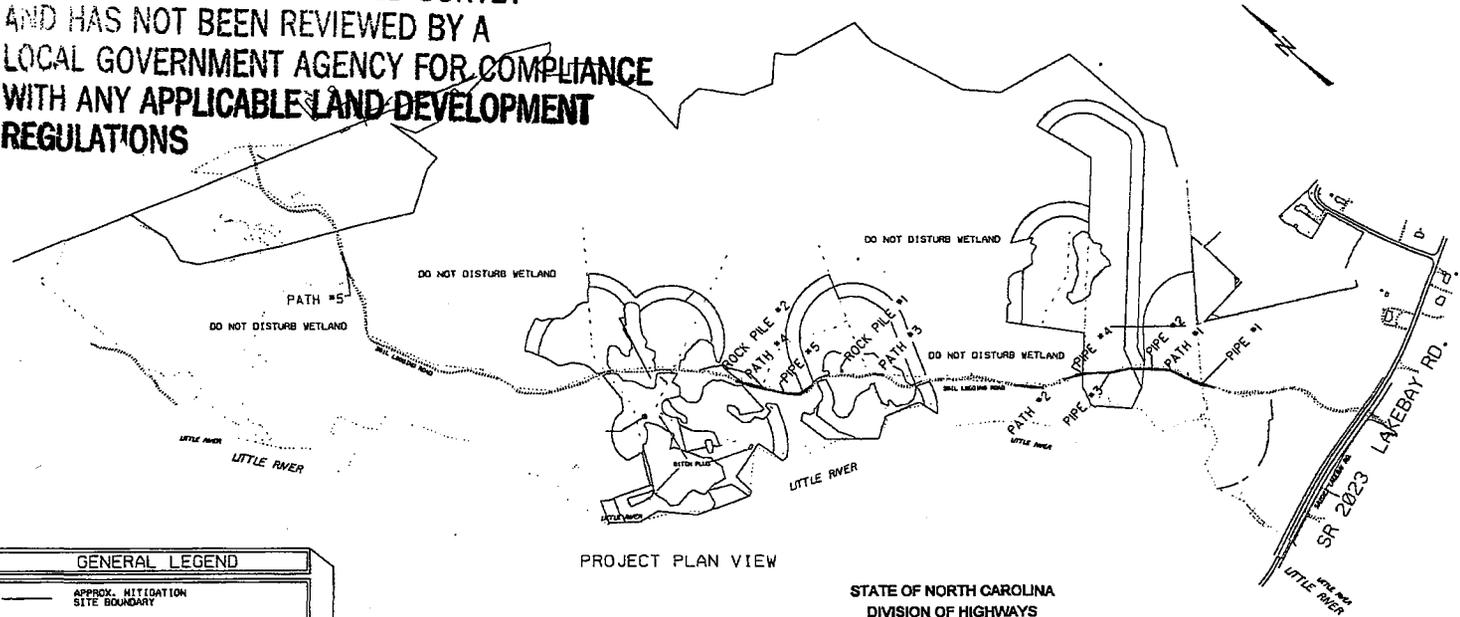
BEGINNING at an iron pin with oak pointers in line of Ernest F. Coble, Jr. land, a common corner of a tract of Martin Burns' land, described in a deed recorded in Book 85 at Page 378 in the office of the Register of Deeds of Moore County, North Carolina, and the tract hereby conveyed being S 0 Degrees 12 Minutes East 75.90 feet from a common corner of the lands of Ernest F. Coble, Jr. and James Burns; running thence with Coble's line S 0 Degrees 12 Minutes East 1671.21 feet to an iron pin on the northern bank of Little River; thence along the various courses of Little River to a point in the bridge on S.R. No. 2023 over Little River, North 59 Degrees 57 Minutes East 132.89 feet from the tip of a prong on western side of Little River on the southern edge of S.R. #2023 (Southern Pines- Lobelia); running thence with said State Road North 75 Degrees 00' East 600.00 feet to a point in the center of said State Road; thence continuing with said State Road North 85 Degrees 00' East 475.00 feet to a point in the center of said State Road; thence North 55 Degrees 00' East 742.00 feet to an existing iron bar, North 54 Degrees 00' East 47.0 feet from the northern edge of State Road #2023; North 51 Degrees 26' West 1005.91 feet to an iron pin; thence South 85 Degrees 17' East 311.90 feet to an iron pin; thence North 4 Degrees 42' East 396.06 feet to an iron pin; thence North 46 Degrees 03' East 628.00 feet to an iron pin; thence North 21 Degrees 59' West 284.90 feet to an iron pin; thence North 13 Degrees 00' East 400.00 feet to flat iron bar, pine pointers; thence North 17 Degrees 50' West 222.00 feet to an iron pin; thence North 85 Degrees 50' West 220.00 feet to an iron pin; thence North 44 Degrees 50' West 352.00 feet to an iron pin; thence North 15 Degrees 20' West 400.00 feet to an iron pin; thence North 4 Degrees 00' West 388.29 feet to an iron pin; thence North 68 Degrees 12' West 200.00 feet to an iron pin, oak pointers; thence North 60 Degrees 25' West 900.00 feet crossing Watery Branch to iron pin; thence North 21 Degrees 37' East 160.00 feet to an iron pin; thence North 27 Degrees 45' West 712.46 feet to an iron pin; thence North 53 Degrees 03' West 223.00 feet to an iron pin; thence North 80 Degrees 37' West 185.00 feet to an iron pin, Burns' corner; thence with Burns' line North 61 Degrees 23' West 2884.95 feet to the beginning, containing Three Hundred Twenty (320) acres, more or less.

EXHIBIT B

MAP

**THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS**

ACOE PERMIT VIOLATION REMEDIATION



PROJECT PLAN VIEW

GENERAL LEGEND	
---	APPROX. MITIGATION SITE BOUNDARY
○	EXISTING BUILDING
---	EXISTING FENCE
---	EXISTING DITCH
○	24" MONITORING WELLS
○	REFERENCE WETLAND (4)
○	RESTORATION AREAS (8)
	HECTARES ACRES
▨	WETLAND ENHANCEMENT / PROTECTION 71* 176*
▨	UPLAND REFORESTATION / PROTECTION 41* 182*
▨	WETLAND RESTORATION 28* 49*
	TOTAL 132* 327*

STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS

SUMMARY OF QUANTITIES

SECT.	QUANTITY	UNIT	ITEM DESCRIPTION
800	1	LB	MOBILIZATION
1660	2.4	AC	SEEDING AND MULCHING
	1	LB	GRADING (REMOVAL OF ROAD/ROCK AT PATH#)
	0.9	AC	WETLAND REFORESTATION
	2.4	AC	RIPPING
	1	LB	EROSION CONTROL

NOTE: ALL QUANTITIES SHOWN ARE APPROXIMATE.
CONTRACTOR MUST VERIFY ALL QUANTITIES
TO HIS OWN SATISFACTION.
ESTIMATE I.E. GRADING - 800 CY, GRADING (REMOVAL OF ROAD/ROCK AT PATH#)
AND 100 LF PIPE REMOVAL (6 X PIPE)

Drawn By	JMP	Scale	1" = 600'
Check By	JMH	Date	AUG 2000
Figure	17		
ESC Project No.	98-024.05		

MITIGATION AND MONITORING PLAN
SALT TRACT MITIGATION SITE
MOORE COUNTY, NORTH CAROLINA

NC DEPARTMENT OF TRANSPORTATION
P.O. BOX 25201
RALEIGH, NORTH CAROLINA 27611



Scale

EXHIBIT C

**UNITED STATES ARMY CORPS OF ENGINEERS' PERMIT #199300570
ISSUED TO NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
ON OCTOBER 4, 2002**



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS

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

IN REPLY REFER TO

October 4, 2002

Regulatory Division

Action ID. 199300570; U.S. 1, Transportation Improvements Project No. R-210

Mr. Roy C. Shelton, Staff Engineer
Project Development and Environmental Analysis Branch
North Carolina Department of Transportation
Division of Highways
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Mr. Shelton:

In accordance with the written request of February 21, 2001, and the ensuing administrative record, enclosed is a permit to discharge dredged and/or fill material into Little River, Little Juniper Creek, Crane Creek and Little Crane Creek and their tributaries impacting a total of 4,880 linear feet of streams and 41.5 acres of wetlands to facilitate the construction of 12.8 miles of U.S. 1, Transportation Improvements Project (TIP) R-210, State Project Number 8.T560302. The proposed roadway project extends from the existing U.S. 1 four-lane facility south of Camp Easter Road (SR 1853) at Lakeview in Moore County to the existing four-lane facility at Wild Life Road (SR 1180) south of Sanford in Lee County, North Carolina.

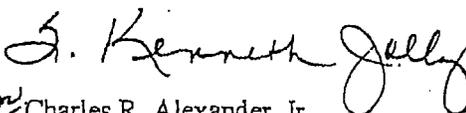
If any change in the authorized work is required because of unforeseen or altered conditions or for any other reason, the plans revised to show the change must be sent promptly to this office. Such action is necessary, as revised plans must be reviewed and the permit modified.

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 general conditions require that:

- a. You must complete construction before December 31, 2005.
- b. You must notify this office in advance as to when you intend to commence and complete work.
- c. 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.

Should you have questions, contact Mr. Richard K. Spencer of my Wilmington Field Office Regulatory staff at telephone (910) 251-4172.

Sincerely,


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

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, MD 20910-3282

Copies Furnished with special conditions and plans:

Mr. Garland Pardue, Field Supervisor
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, NOAA
101 Pivers Island
Beaufort, North Carolina 28516

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

Mr. Ronald Mikulak, Chief
Wetlands Section - Region IV
Water Management Division
U.S. Environmental Protection Agency
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303

Mr. Doug Huggett
Division of Coastal Management
North Carolina Department of
Environment and Natural Resources
1638 Mail Service Center
Raleigh, North Carolina 27699-1638

Mr. Ronald E. Ferrell, Program Manager
Wetlands Restoration Program
Division of Water Quality
1619 Mail Service Center
Raleigh, North, Carolina 27699-1619

DEPARTMENT OF THE ARMY PERMIT

NC Department of Transportation

Permittee _____

199300570

Permit No. _____

CESAW-RG-L

Issuing Office _____

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:

Place dredged and/or fill material into Little River, Little Juniper Creek, Crane Creek and Little Crane Creek and their tributaries impacting a total of 4,880 linear feet of streams and 41.5 acres of wetlands to facilitate the construction of 12.8 miles of U.S. 1, Transportation Improvements Project (TIP) R-210, State Project Number 8.T560302. This authorization also includes the installation of Fiber Optic Cable in the mainline road right-of-way from centerline station 23+20 to 29+25.

Project Location:

In the Cape Fear River basin, from the existing U.S. 1 four-lane facility south of Camp Easter Road (SR 1853) at Lakeview in Moore County to the existing four-lane facility at Wild Life Road (SR 1180) south of Sanford in Lee County, North Carolina

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2005. 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 enclosed sheet.

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.



(PERMITTEE)
NC DEPARTMENT OF TRANSPORTATION

26 Sept 02

(DATE)

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



DISTRICT ENGINEER
CHARLES R. ALEXANDER, JR. COLONEL

4 OCT 02

(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.

(TRANSFEEE)

(DATE)



July 19, 2002

Mr. William D. Gilmore, P.E., Manager
NCDOT Planning and Environmental Branch
1548 Mail Service Center
Raleigh, NC, 27699-1548

Dear Mr. Gilmore:

Re: Water Quality Certification Pursuant to §401 of the Federal Clean
Water Act, US 1 from north of Lakeview to south of Sanford
(Vass Bypass), Moore/Lee Counties
TIP No. R-210
DWQ Project No. 010404

Attached hereto is a copy of Certification No. 3344 issued to The North Carolina Department of
Transportation dated July 19, 2002.

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

Sincerely,

Alan W. Klimek, P.E.

Attachments

cc: Richard Spencer, USACE Wilmington Field Office
Ken Averitte, NCDWQ Fayetteville Regional Office
Public Hearing Attendees
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 certification authorizes the NCDOT to incur the following permanent impacts: 41.5 acres of jurisdictional wetlands through permanent fill, excavation, and mechanized clearing; 14.50 acres of surface waters (anthropogenically-created ponds) fill; and 4,880 linear feet of stream channels in Moore and Lee Counties, as described in the Application dated 19 February 2001, and additional information dated 12 February 2002 and 15 March 2002. The project shall be constructed pursuant to the application dated February 19 filed to construct improvements to US 1 from north of Lakeview to south of Sanford (Vass Bypass, TIP Project No. R-210).

The application provides adequate assurance that the discharge of fill material into the waters of the state 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. Should your project change, you are required to notify the DWQ *in writing*, and you may be required to 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 this project incurs additional wetland or stream impacts, 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, Non-discharge and Water Supply watershed regulations. This Certification shall expire three (3) years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Corps of Engineers Permit, whichever is sooner.

Condition(s) of Certification:

1. The applicant must follow the 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* or *the North Carolina Surface Mining Manual*, whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) and shall 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 (50 NTUs in all fresh water streams and rivers not designated as trout waters; 25 NTUs in all lakes and reservoirs, and all saltwater classes; and 10 NTUs in trout waters);
2. NCDOT shall use *Best Management Practices for the Protection of Surface Waters* (NCDOT March 1997), specifically using all applicable preventive and control measures during the design, construction and maintenance of this project. These measures shall be implemented prior to any ground-disturbing activities to minimize impacts to downstream aquatic resources.

3. During the construction of the project, the applicant shall strictly adhere to North Carolina regulations entitled, *Design Standards in Sensitive Watersheds* [15A NCAC 4B .0124(a)-(d)], within the entire project corridor.
4. Storm water shall be directed to buffer areas or retention basins and shall not be routed directly into streams. Existing vegetated buffers shall not be mowed in order to utilize it for storm water diffuse flow.
5. Temporary or permanent herbaceous vegetation shall be planted on all bare soil *within 10 days* of ground-disturbing activities (due to the presence of High Quality Waters) to provide long term erosion control.
6. NCDOT shall adhere to the requirements for High Quality Waters [15A NCAC 2B .0224].
7. Hazardous Spill Catch Basins shall be required for *all stream crossings*. The final designs for the Hazardous Spill Catch Basins shall be submitted to the North Carolina Division of Water Quality 401 Wetlands Unit prior to beginning construction in the Water Supply watershed. As-built drawings for the basins shall be submitted to the North Carolina Division of Water Quality 401 Wetlands Units no later than 30 days after the construction is completed.
8. The bridge(s) required for this project shall be designed according to *Best Management Practices for the Protection of Surface Waters* (NCDOT March 1997). Specifically, the bridge decking shall not discharge storm water directly into the receiving water.
9. Prior to any construction activities, the NCDOT shall submit a maintenance plan for all storm water management facilities and hazardous spill catch basins associated with the project. The NCDOT shall be required to implement the maintenance plan for the life of this road. Sediment and erosion control devices shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored after the Division of Land Resources has released the project.
10. Any bridge demolition work required by this project shall adhere to NCDOT's *Best Management Practices for Bridge Demolition and Removal*.
11. Live or fresh concrete shall not come into contact with waters of the state until the concrete has hardened.
12. There shall be no excavation from or waste disposal into jurisdictional wetlands or waters associated with this permit without appropriate modification of this Certification. If this occurs, compensatory mitigation will be required since it is a direct impact from road construction activities.
13. Placement of culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed to allow low flow passage of water and aquatic life unless it can be shown to DWQ that providing passage would be impractical. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ.
14. NCDOT shall mitigate for the loss of two water supply wells for the Town of Cameron by constructing a municipal supply well or wells capable of yielding a minimum of 70 gallons per

minute (gpm). The Utility Relocation Agreement was entered with the Town of Cameron on October 26, 1998.

15 *Mitigation:* Compensatory mitigation shall be the same as that approved by the US Army Corps of Engineers as long as the mitigation required equals a ratio of 1:1 restoration or creation of lost wetland acres as described in 15A NCAC 2H.0506 (h)(6). A report must be submitted to the NC Division of Water Quality that describes the final approved wetland and stream mitigation for this project within two (2) months of the issuance of the 404 permit issued by the Army Corps of Engineers.

- a. Wetland impacts of 41.5 acres include riverine wetlands. NCDOT will mitigate these impacts by providing the following:
 - 4.8 acres of on-site restoration (1:1 ratio) in the floodplain of the Little River as described in Appendix C of the Application.
The monitoring plan shall be followed and reports shall be submitted to this Office after the first year and every other year afterwards for a total of five (5) years.
 - 8.4 acres of on-site preservation as described in Appendix C of the Application.
 - Sandhills Area Land Trust (SALT) Mitigation Site (a 327-acre site in Moore County) being offered in total to offset the remainder of wetland impacts (36.8 acres) associated with the project. This site includes a maximum of 49 acres of wetland restoration.

NCDOT shall place groundwater gauges on the site such that they will accurately measure the drainage effect of the existing ditches at the SALT site. Before the additional monitoring and re-modeling of the groundwater table of the SALT Site occurs, NCDOT shall meet with DWQ personnel to agree upon the details of additional studies. If the resulting hydrological modeling demonstrates that less than 36.8 acres can actually be restored, NCDOT shall obtain wetland mitigation through in-lieu payments to Wetlands Restoration Program (WRP).

- b. Stream impacts total 4,880 linear feet in the Cape Fear River Basin (Hydrologic Unit 03030004). NCDOT proposes to provide compensatory mitigation at a 2:1 ratio except where on-site mitigation will be provided. The on-site mitigation sites will be mitigated at a 1:1 ratio as detailed in Table 4, Appendix A of the February 19, 2001 Application. Compensatory mitigation consists of the following:
 - 1,154 linear feet of on-site stream relocation/restoration, with 50-foot buffers, using *natural channel design*. The natural channel design specifications shall be calculated from field measurements of an unimpacted section of stream (reference reach). The plans must include reference reach data including a sketch map, the range of values (pattern data), and all calculations (including the determination of bankfull). The channel design should include a floodplain terrace at stream bankfull.

The stream relocation shall be built and maintained according to approved plans before any mitigation credit is given. If this Office determines that the stream restoration or associated riparian area has become unstable, the stream shall be repaired or stabilized using only natural channel design techniques if possible. Additionally, the vegetation in the riparian shall be maintained and/or replaced according to the approved plans. Rip-rap and other hard structures may *only* be used if required by the Division of Land Resources or a Delegated Local Program. Additionally, all repair designs must be submitted to and receive written approval from this Office before the repair work is performed.

Since the restored stream is proposed as compensatory mitigation for stream impacts, the restored portion and associated riparian area shall be preserved in perpetuity through a preservation easement or some other legally binding mechanism or agreement. The above easement or other legally binding mechanism or agreement must be in place before any mitigation credit shall be given. Additionally, the stream physical and biological monitoring plan shall be followed and reports shall be submitted to this Office after the first year and every other year afterwards for a total of five (5) years.

- The remaining 8,068 linear feet of stream mitigation shall be provided via in-lieu payments to Wetlands Restoration Program as agreed on April 1, 1999.

In accordance with 15A NCAC 2R.0500, this contribution will satisfy our compensatory mitigation requirements under 15A NCAC 2H.0506(h). Until plans are received and approved for the stream relocation using natural channel design, wetland or stream fill shall not occur.

16. Upon completion of the project, the NCDOT shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the Division of Water Quality upon completion of the project.
17. The Applicant shall require its contractors (and/or agents) to comply with all of the terms of this Certification, and shall provide each of its contractors (and/or agents) a copy of this Certification.

Violations of any condition herein set forth shall 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 Permit.

If you do not accept any of the conditions of this certification, you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition that conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This certification and its conditions are final and binding unless you ask for a hearing.

This the 19th day of July 2002

DIVISION OF WATER QUALITY



Alan W. Klimek, P.E.

SPECIAL CONDITIONS (Action ID. 1993-0-0570; NCDOT/TIP R-210)

1. All work authorized by this permit must be prepared in strict compliance with the attached plans, which are a part of this permit.
2. Stream Relocation Requirements:
 - a. The permittee will relocate 1154 linear feet of stream at the following locations:
 - i. The permittee shall mitigate for 174 linear feet of unavoidable impacts to an unnamed tributary to the Little River (Section A, Impact Site #10), an important stream channel, by completing 174 linear feet of onsite stream relocation, as described in the permit application
 - ii. The permittee shall mitigate for 980 linear feet of unavoidable impacts to an unnamed tributary to Little Crane Creek (Section C, Impact Site #4), an important stream channel, by completing 980 linear feet of onsite stream relocation, as described in the permit application.
 - b. The relocations will be performed subject to the following conditions.
 - i. The stream relocation shall be constructed in accordance with the North Carolina Wildlife Resources Commission's (NCWRC) "Stream Relocation Guidelines", and with the attached permit drawings. NCDOT shall consult with NCWRC on all stream relocations and implement all practicable recommendations in the design of specific site requirements for re-establishment of bank vegetation, and placement of meanders and habitat structures. Vegetation shall be used to the maximum extent practicable to stabilize banks, and riprap and other man-made structural measures shall be minimized.
 - ii. The permittee shall construct all channel relocations in a dry work area. The permittee shall stabilize the relocated channel before stream flows are directed into the new channel. Stream flows shall not be released into the new channel until approved by the Corps of Engineers, Wilmington District. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. Upon completion of the project, an as-built channel survey shall be conducted. It is recommended that stream surveys, for both project construction and project monitoring, follow the methodology contained in the USDA Forest Service Manual, *Stream Channel Reference Sites* (Harrelson, et.al, 1994). The survey shall document the dimension, pattern and profile of the relocated channel.
 - iii. The permittee shall identify a stable reference reach that is close to the proposed relocation site and will not be impacted by the proposed highway construction. The applicant will coordinate a field meeting with the Corps of Engineers

to approve the reference reach selection prior to channel design and relocation of the existing stream. Baseline data on the reference reach channel dimension, pattern, and profile shall be collected and used as a blueprint for the relocation channel design. A detailed design plan of the relocation stream shall be submitted to this office for review prior to construction, including clearing activities.

iv. Vegetation used to stabilize banks shall be limited to native woody species, and will include establishment of a 50 foot wide vegetated buffer on the relocated channel. Stream banks will be planted with native vegetation that represents both woody (trees and shrubs) and herbaceous species. Species selection will be based on a survey of the vegetation from the approved reference reach. Survival of woody species planted at the stream mitigation sites must be at least 320 trees/acre through year three. A ten percent mortality rate will be accepted in year four (288 trees/acre) and another ten percent in year five, resulting in a required survival rate of 260 trees/acre through year five.

v. The permittee shall monitor the stream relocation site for a period of five years starting the year following construction. Monitoring data at the site should include the following: reference photos, plant survival and channel stability. Data shall be collected each year for 5 years at the same time of year. No less than two (2) bankfull flow events must be documented through the required 5-year monitoring period. If less than 2 bankfull events occur during the first 5 years, monitoring will continue until the second bankfull event is documented. The bankfull events must occur during separate monitoring years.

vi. If within any monitoring year, bank or stream stability is not acceptable as determined by the Corps of Engineers, and remedial action required by the Corps of Engineers is performed, the five-year monitoring period of the affected portions of the stream will start again at monitor year one. The permittee will coordinate all remedial activities with the Corps of Engineers, Wilmington District, prior to taking any remedial action. The permittee will submit a brief written report with representative photographs within 90 days after the monitoring year is completed.

vii. The permittee shall provide the Corps of Engineers, Wilmington District with a stream mitigation construction sequencing schedule within 30 days following the project preconstruction meeting. The plan, shall at a minimum, indicate a date of start of construction at the relocation site, grading schedule, planting schedule, completion of construction, monitoring schedule, and a date of potential diversion into the new channel. All stream mitigation construction must be completed within one year from the date of issuance of this permit.

viii. The permittee and/or current and subsequent property owners shall maintain the mitigation site in its natural condition, as altered by work in the mitigation plan, in perpetuity. Prohibited activities within the mitigation site specifically include, but are not limited to: the construction or placement of roads, walkways, buildings, signs, or structures of any kind (i.e., billboards, interior fences, etc.); filling, grading,

excavation, leveling, or any other earth moving activity or activity that may alter the drainage patterns on the property; the cutting, mowing, destruction, removal, or other damage of any vegetation; disposal or storage of any debris, trash, garbage, or other waste material; except as may be authorized by the mitigation plans, or subsequent modifications that are approved by the Corps of Engineers. In addition, the permittee shall take no action, whether on or off the mitigation property, which will adversely impact the wetlands or streams on the mitigation property, except as specifically authorized by this permit, or subsequent modifications that are approved by the Corps of Engineers, Wilmington District.

ix. Condition 2.b.viii, above, runs with the land. The permittee shall not sell, lease, or otherwise convey any interest in the mitigation property without subjecting the property to legally enforceable restrictions on the use of the property, to ensure its preservation in perpetuity. The instrument utilized to meet this condition must be approved in writing by the Wilmington District Corps of Engineers before execution.

3. The permittee shall mitigate for 3726 linear feet of unavoidable impacts to important stream channel associated with this project by payment to the North Carolina Wetlands Restoration Program (NCWRP) in an amount determined by the NCWRP sufficient to perform 7452 linear feet of warm water stream mitigation, or the equivalent water quality improvement projects, as approved by the Corps of Engineers, in the Cape Fear River basin (Cataloging Unit 03030004). Construction within streams on the permitted highway project shall begin only after the permittee has made full payment to the NCWRP, and the NCWRP has made written confirmation to the District Engineer, that it agrees to accept responsibility for the mitigation work required, pursuant to Paragraph IV.D. of the Memorandum of Understanding between the North Carolina Department of Environment and Natural Resources and the U.S. Army Corps of Engineers, Wilmington District, dated November 4, 1998.

4. The permittee shall mitigate for 4.7 acres of unavoidable impacts to High Quality riverine wetlands at the Little River (Section A, Impact Site #1) by providing 4.7 acres of on-site restoration and 8.4 acres of on-site preservation as identified in the Little River On-site Restoration Plan, dated February 2001. In addition, the following stipulations shall apply to this mitigation site:

a. The permittee shall identify a reference site that is adjacent to the proposed restoration site and will not be impacted by the proposed highway construction. The applicant will coordinate a field meeting with the Corps of Engineers to approve the reference site selection prior to mitigation design and restoration of the mitigation site. Baseline data on the reference site hydrology, surface elevations, and vegetation shall be collected and used as a blueprint for the wetland restoration design. A detailed design plan of the wetland restoration shall be submitted to this office for review prior to construction, including clearing activities, at this site (Section A, Impact Site #1).

b. To meet the success criteria, the monitoring data must show that for each normal precipitation year within the monitoring period, the site exhibits saturation within the upper 12 inches of the soil surface for a minimum of 12.5% or 29 days, or greater consecutive day duration during the growing season and inundation must occur 5 out of 10 years or 50% of the years monitored, at a minimum frequency. Baseline hydrologic data shall be obtained from the reference site, which can be used to support the mitigation site's hydrology success. WETS tables for Moore County will be utilized as appropriate to determine normal precipitation years.

c. If there are no normal precipitation years during the first five years of monitoring, to meet performance criteria, the permittee will continue to monitor hydrology on the site until it shows that the site has been inundated or saturated as described above during a normal precipitation year.

d. The mitigation site shall be suitably graded to promote the establishment of planted wetland vegetation, generally to the adjacent wetland reference site elevations. If mineral soil is exposed at the desired restoration grade, the site should be graded to at least minus one-foot and brought back to grade by providing at least one foot of wetland topsoil. If organic soil is exposed at the desired restoration grade, the soil should be disked or suitability prepared for planting. Every effort must be made to utilize the topsoil from the impacted wetlands on this project to promote wetland re-vegetation.

e. The mitigation site will be planted with native vegetation that represents both woody (trees and shrubs) and herbaceous species. Species selection will be based on a survey of the vegetation from the approved reference site. Survival of woody species planted at the mitigation site must be at least 320 trees/acre through year three. A ten percent mortality rate will be accepted in year four (288 trees/acre) and another ten percent in year five resulting in a required survival rate of 260 trees/acre through year five.

f. Vegetation monitoring must begin in the spring just after leaf-out. Permanent randomly located sample plots shall be established at the mitigation site. Plot size should be based on established standards for sampling vegetation planted at the target densities, usually 0.1 acre. The number of plots shall be established by providing combined sample coverage of 2% of the mitigation site, or for small sites less than 15 acres in size, a minimum of three plots shall be established. The planted tree stock shall be marked by use of tree marking paint and/or tree tags for identification and sampling. Plants that have colonized the sample plot shall be identified and noted in the monitoring report but not used in the planted vegetation monitoring calculations. Plant recruitment shall be calculated as a separate item and corrective measures may need to be taken if the volunteers are undesirable or are jeopardizing the survival of the planted stock. The measurement of planted stock survival using stem density will be acceptable provided that only planted stock is counted. In addition, in order to measure health and vigor of the planted stock, height measurements of the plants in each plot shall be taken, compared and provided in the yearly monitoring report. General observations of lateral plant growth, leaf and bud development should also be annotated in the reports.

g. Continually recording monitoring wells, surface gauges and/or piezometers shall be developed in the reference site and restoration site and be of sufficient numbers and adequately spaced to measure the extent, frequency and duration of the site inundation/saturation. This will aid in quickly identifying problem areas for remediation and determine the hydrologic success of the mitigation effort. The permittee must comply with USACE WRP Technical Note HY-IA3.1 for installation and development of the monitor wells and/or piezometers. Monitor wells shall be visited frequently to avoid lengthy down time of non-functioning wells and maintenance shall be scheduled in such a way as to minimize any down time for repairs or replacement. Lengthy down time of wells during the growing season may result in the extension of the monitoring period in order to fill in gaps in the data.

h. The permittee and/or current and subsequent property owners shall maintain the mitigation site in its natural condition, as altered by work in the mitigation plan, in perpetuity. Prohibited activities within the mitigation site specifically include, but are not limited to: the construction or placement of roads, walkways, buildings, signs, or structures of any kind (i.e., billboards, interior fences, etc.); filling, grading, excavation, leveling, or any other earth moving activity or activity that may alter the drainage patterns on the property; the cutting, mowing, destruction, removal, or other damage of any vegetation; disposal or storage of any debris, trash, garbage, or other waste material; except as may be authorized by the mitigation plan, or subsequent modifications that are approved by the Corps of Engineers, Wilmington District. In addition, the permittee shall take no action, whether on or off the mitigation property, which will adversely impact the wetlands or streams on the mitigation property, except as specifically authorized by this permit, or subsequent modifications that are approved by the Corps of Engineers, Wilmington District.

i. Condition 4.h., above, runs with the land. The permittee shall not sell, lease, or otherwise convey any interest in the mitigation property without subjecting the property to legally enforceable restrictions on the use of the property, to ensure its preservation in perpetuity. The instrument utilized to meet this condition must be approved in writing by the Wilmington District Corps of Engineers before execution.

5. The permittee shall mitigate for 36.8 acres of unavoidable impacts to riverine wetlands associated with this project by restoring, at a minimum, 36.8 acres of wetlands, preserving 176 acres of wetlands, and preserving 102 acres of uplands at the 327-acre Sandhills Area Land Trust (SALT) Mitigation Site as described in the report entitled "Wetland Mitigation Plan - SALT Mitigation Site" dated August 16, 2000. In addition, the following stipulations shall apply to this mitigation site:

a. To meet the success criteria, the monitoring data must show that for each normal precipitation year within the monitoring period, the site exhibits saturation within the upper 12 inches of the soil surface for a minimum of 12.5% or 29 days, or greater consecutive day duration during the growing season and inundation must occur 5 out of 10 years or 50% of the years monitored, at a minimum frequency. Baseline hydrologic

data shall be obtained from the reference site, which can be used to support the mitigation site's hydrology success. WETS tables for Moore County will be utilized as appropriate to determine normal precipitation years.

b. The mitigation site will be planted with native vegetation that represents both woody (trees and shrubs) and herbaceous species. Species selection will be based on a survey of the vegetation from the reference sites. Survival of woody species planted at the mitigation site should be at least 320 trees/acre through year three. A ten percent mortality rate will be accepted in year four (288 trees/acre) and another ten percent in year five resulting in a required survival rate of 260 trees/acre through year five.

c. Vegetation monitoring must begin in the spring just after leaf-out. Permanent randomly located sample plots shall be established at the mitigation site. Plot size shall be based on established standards for sampling vegetation planted at the target densities, usually 0.1 acre. The number of plots shall be established by use of statistical methods used to identify adequate sample size and, at a minimum, provide combined sample coverage of 2% of the mitigation site. The planted tree stock shall be marked by use of tree marking paint and/or tree tags for identification and sampling. Plants that have colonized the sample plot should be identified and noted in the monitoring report but not used in the planted vegetation monitoring calculations. Plant recruitment should be calculated as a separate item and corrective measures may need to be taken if the volunteers are undesirable or are jeopardizing the survival of the planted stock. The measurement of planted stock survival using stem density will be acceptable provided that only planted stock is counted. In addition, in order to measure health and vigor of the planted stock, height measurements of the plants in each plot shall be taken, compared and provided in the yearly monitoring report. General observations of lateral plant growth, leaf and bud development should also be annotated in the reports.

d. Continually recording monitoring wells, surface gauges and/or piezometers shall be developed in the reference sites (four wells) and restoration site (eight wells) and be adequately spaced to measure the extent, frequency and duration of the site inundation/saturation. This will aid in quickly identifying problem areas for remediation and determine the hydrologic success of the mitigation effort. The permittee must comply with USACE WRP Technical Note HY-IA3.1 for installation and development of the monitor wells and/or piezometers. Monitor wells shall be visited frequently to avoid lengthy down time of non-functioning wells and maintenance shall be scheduled in such a way as to minimize any down time for repairs or replacement. Lengthy down time of wells during the growing season may result in the extension of the monitoring period in order to fill in gaps in the data.

e. A detailed design plan of the wetland restoration site shall be submitted to this office for review prior to any construction, including clearing activities in the project's permitted areas.

f. No improvements shall be initiated on the logging road that bisects the SALT Mitigation Site. This includes changing the existing grade, maintenance grading,

widening, and/or paving. Stabilization of the road embankments to prevent erosion shall be accomplished by re-vegetation measures only. No structural armoring shall be initiated.

g. Except as described in the mitigation plan, no activities shall be initiated, conducted or allowed on the SALT Mitigation Site that may disturb, impair, alter, and/or modify the hydrology, vegetation and/or hydric soils of any of the existing wetland areas, including any restored wetlands. Periodic controlled burning will be allowed provided no fire brakes are placed in any wetlands and the prescribed burn is in accordance with a NC Forest Service authorized burning plan.

h. No amendments to the existing Conservation Easement dated July 13, 1998 and recorded in Deed Book 1400 at Page 329 shall be undertaken without prior written approval by the Corps of Engineers, Wilmington District.

i. Permittee may not transfer its conservation easement in the SALT mitigation property without the prior approval of the Corps of Engineers.

j. No trails or interpretive exhibits shall be constructed on the SALT Mitigation property subject to the Conservation Easement without the written approval of the Corps of Engineers, Wilmington District.

k. The permittee shall enforce the terms of the conservation easement in the mitigation property recorded in Book 1400, Page 329 of the Moore County Registry.

6. When final design plans are completed for TIP R-210, any necessary permit modification requests shall be submitted to the Corps of Engineers and the North Carolina Division of Water Quality (NCDWQ). If necessary, a public notice describing the modifications and any additional impacts associated with the modifications will be circulated for public review and comment. Final design plans shall reflect all appropriate avoidance and minimization measures taken to lessen the project impacts on aquatic resources. The permittee shall submit a compensatory mitigation plan for proposed additional impacts within streams and wetlands associated with the proposed modifications. Construction within streams and wetlands on TIP R-210 shall begin only after approval by the Corps of Engineers of the modified impacts.

7. Prior to commencing construction within jurisdictional waters of the United States for any portion of the proposed highway project, the permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Wilmington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings will be acceptable.

8. The permittee shall schedule a meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Wilmington 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 notify the Corps of Engineers Project Manager a minimum of thirty (30) days in advance of the scheduled meetings in order to provide that individual with ample opportunity to schedule and participate in the required meetings.

9. The permittee and its contractors and/or agents shall not excavate, fill, or perform mechanized land clearing at any time in the construction or maintenance of this project within waters and/or wetlands, except as authorized by this permit, or any modification to this permit. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification of this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project.

10. To ensure that all borrow and waste activities occur on high ground, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used for borrow material, or to dispose of dredged, fill, or waste material. The permittee shall ensure that all such areas comply with the preceding condition (6) 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 preceding condition (6). All information will be available to the Corps of Engineers upon request.

11. The permittee shall comply with the conditions specified in the water quality certification, No. 3344, issued by the North Carolina Division of Water Quality on July 19, 2002.

12. In compliance with NHPA, Section 106, the permittee shall comply with all stipulations identified in the Memorandum of Agreement (MOA) between Federal Highway Administration, Advisory Council on Historic Preservation and the NC Historic Preservation Officer (SHPO) on this project.

13. The permittee shall place the inverts of culverts and other structures in waters, streams, and wetlands one foot below the elevation of the streambed to allow low flow passage of water and aquatic life, unless providing passage would be impractical and the Corps of Engineers has waived this requirement. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to, upstream or downstream of the structures.

14. 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 (50 NTU's in all streams and rivers, and 25 NTU's in all lakes).

15. 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.

16. The permittee shall take measures to prevent live or fresh concrete from coming into contact with any surface waters until the concrete has hardened.

17. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the authorized work, he shall immediately stop work and notify the Wilmington District Engineer who will initiate the required State/Federal coordination.

18. No excavated or fill material shall be placed at any time in waters or wetlands outside the authorized permit area, nor will it be placed in any location or in any manner so as to impair surface water flow into or out of any wetland area.

19. The permittee shall maintain the authorized work in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if he abandons the permitted activity without transferring it to a third party.

20. All fill material shall be clean and free of any pollutants except in trace quantities. Metal products, organic materials, or unsightly debris will not be used.

21. This Department of the Army permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

22. In issuing this permit, the Federal Government does not assume any liability for:

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 Federal activities initiated on behalf of the general public.

c. Damages to other permitted or un-permitted activities or structures caused by the authorized activity.

d. Design and construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

EXHIBIT D
REMEDATION PLAN



REPLY TO
ATTENTION OF:

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

March 3, 2010

Regulatory Division

Action ID No. SAW-1993-00570

Gregory J. Thorpe, Ph.D.
Environmental Management Director, PDEA
N.C. Department of Transportation
1598 Mail Service Center
Raleigh, NC 27699-1548

Dear Dr. Thorpe:

Please reference our November 17, 2009 letter to you regarding the discharges of fill material and roadway upgrades on approximately 3 acres of the Salt Tract Mitigation Site, Moore County, North Carolina. The North Carolina Department of Transportation (NC DOT) developed the Salt Tract Mitigation Site to satisfy compensatory mitigation requirements of the Department of the Army (DA) authorization issued on October 4, 2002 (Action ID Number: SAW-1993-00570).

On February 4, 2010, Ms. Kimberly Garvey and Ms. Jennifer Frye of the U.S. Army Corps of Engineers Regulatory Division (Corps), met on-site with Ms. Candice Williams and Mr. Harry Hubert, both representing the Sandhills Area Land Trust, Mr. Art King, Mr. Rex Badgett, Ms. Sarah Foster and Mr. Chuck Dumas of NC DOT Division 6 and Mr. Randy Griffin, Mr. Phil Harris and Mr. Jason Elliot of your office to evaluate the recent land disturbing activities and discuss restoration options. On February 18, 2010, the Corps received your proposed remediation plan, entitled *Sand Hill Area Land Trust Mitigation Site Permit Violation Remediation Plan, TIP R-210, US 1 Relocation, ORM ID199300570, Moore County, February 2010* (attached). Upon review of this Remediation Plan and the ensuing administrative record, the Corps determines that this remediation proposal is satisfactory, provided you adhere to the following modifications and conditions:

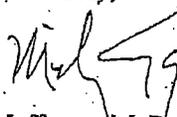
1. Remediation work shall be completed within 90 days of the date of this letter. If the site remediation cannot be completed within 90 days, you must submit to the Corps a written explanation and a schedule of completion for our review.
2. No fill shall be added or re-deposited in the restoration area; nor shall the restoration area be re-graded with mechanized equipment once the fill is removed.
3. You must contact the Corps to schedule an on-site pre-construction meeting with the contractor, prior to commencing the restoration.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

4. You must relocate and stabilize the removed fill material to an appropriate upland disposal site.
5. You must install and maintain the proper sediment and erosion control measures on site until such time the Corps verifies restoration success. If, at any time, sediment erodes into the restored area, it must be immediately removed back to the original restored elevations and reported to our office.
6. You shall conduct monitoring of the restoration areas for the re-establishment of wetland criteria, pursuant to the 1987 Corps Wetland Delineation Manual and the Atlantic and Gulf Coastal Plan Regional Supplement, and sedimentation and erosion control for a minimum of five years or until deemed successful by the Corps. You shall provide annual monitoring reports to the Corps by January 1st of each year, with the first submittal by January 1, 2011. Monitoring reports shall include, at a minimum, a brief narrative, photographic documentation of restoration efforts, and vegetation success and/or failure. The decision to plant selected species or allow the site to revegetate naturally will be determined after the review of the first year monitoring report.
7. If, after five years, any portion of the restoration area fails to meet wetland criteria, you will be required to submit (for Corps approval) and execute a contingency plan.
8. During the monitoring period and until the restoration is deemed successful, no activity is permitted within the restoration area beyond what is necessary to maintain sedimentation and erosion control and the survival and health of the wetland vegetation, unless directed or approved by the Corps.
9. There shall be no temporary placement or double handling of excavated or fill material or construction equipment within waters or wetlands outside the remediation areas.
10. NCDOT should utilize the Best Management Practices for all work as described in the "*Best Management Practices for Construction and Maintenance Activities*", August 2003.
11. 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.
12. All discussions and decisions regarding the Conservation Easements on the property must be coordinated directly with the Corps to ensure that the proposed solution is compliant with the terms and conditions of the Department of the Army (DA) authorization issued to the North Carolina Department of Transportation (NC DOT) on October 4, 2002 (Action ID Number: SAW-1993-00570).

Thank you for your time and cooperation. Should you have questions, please contact Ms. Kimberly Garvey or Ms. Jennifer Frye, at the Wilmington Regulatory Field Office, telephone (910) 251-4482 and (910) 251-4923, respectively.

Sincerely,



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

Enclosure

Copies furnished (with enclosure):

Mr. Randy Griffin ✓
NC Department of Transportation
Natural Environment Unit
PDEA Environmental Resource Center
4701 Atlantic Ave, Ste 116
Raleigh, NC 27604

Mr. Art King
NC Department of Transportation
Division 8
PO Box 1067
Aberdeen, NC 28315

Mr. Brian Wrenn
NCDENR DWQ
1650 Mail Service Center
Raleigh, NC 27699-1650

Mr. J. J. Barnes, Jr.
115 Drake Street
PO Box 1741
Fayetteville, NC 28302

Ms. Candice Williams
Executive Director - SALT
140-A SW Broad Street
Southern Pines, NC 28388

Sand Hill Area Land Trust Mitigation Site
Permit Violation Remediation Plan
TIP R-210, US 1 Relocation
ORM ID 199300570
Moore County
February, 2010

RECEIVED
FEB 8 2010
REGULATORY
WILM.FLD.OFC.

The North Carolina Department of Transportation (NCDOT) has become aware of improvements to the old logging road that bisects the Sandhills Area Land Trust (SALT) mitigation site in Moore County. The property is located off Lakebay Road (SR 2023) southwest of Lobella. This site was used as compensatory wetland mitigation to offset unavoidable wetland impacts associated with R-210, US 1 Relocation near Vass. The road improvements include the placement of earth fill material and/or aggregate, as well as culverts, in low lying areas of the road. The current actions were undertaken by the current property owner, with no prior knowledge by NCDOT, until the work was completed.

NCDOT holds a Conservation Easement, dated July, 1998, on this parcel, which specifically prohibits such activity. The purpose of this document is to provide detail to the actions proposed to bring the above mentioned compensatory wetland mitigation site into State and Federal Environmental Permit Compliance.

PROHIBITED ACTIVITY-ROAD IMPROVEMENTS

In December, 2009, NCDOT surveyed the extent of the fill material and culvert installation along the old logging road that bisects the project (see attached plan sheets). There were 5 distinct areas along the path where fill and/or aggregate were used to improve and armor the surface of the road. There were 5 plastic, circular culverts of various sizes that were installed in the washouts along the road, in order to pass surface water flow under the road. Also, fill material and/or aggregate was installed to a depth ranging from approximately 1"-2" in some areas, up to 12"-15" at the culvert locations. There were also 2 distinct rock stockpile locations immediately adjacent to the logging road in upland areas of the site.

PROPOSED REMEDIAL ACTION

Due to the saturation and standing surface water along a majority of the access road, NCDOT will take all precautions not to negatively impact the adjacent wetland areas. The current proposal is to remove the 5 new cross pipes (see attached plan sheets) that were installed along the access road, to prevent surface water from flowing under the road. In addition, unstable fill material, as well as fill material greater than 3 inches in depth will be removed, to the extent possible, and transported to an NCDOT approved stockpile area, approximately 2 miles from the mitigation property. All work proposed will be accomplished

utilizing excavation equipment and trucks operating from the high ground on the old logging road. The cross pipes will be removed in the dry, by utilizing impervious dikes (see Appendix A: Impervious Dike Provision) at the inlet of the culverts. All cross pipe removal will closely follow NCDOT's Best Management Practices for Construction and Maintenance Activities. The entire logging road will be scarified and stabilized with Seed, Mulch, and Matting, where appropriate. A native wetland seed mix will be utilized in wetland areas along the road. (See Appendix A: Native Grass Seeding and Mulching Provision)

Upon further review, it appears that several saplings are either recovering from the mowing operation or regenerating naturally, along the road. No initial tree planting is proposed immediately following grading operations. NCDOT will review the site in December, 2010 to determine if additional seedlings are needed to supplement volunteer saplings. Upon consultation with State and Federal Regulatory agencies, the Department will supplement tree planting, as needed, utilizing the following specifications.

Tree planting density will be 680 trees/acre (approx. 8 foot centers). The following bare root seedlings will be planted, as available: laurel oak, water oak, willow oak, swamp black gum, and bald cypress. These species are consistent with the planting plan for the restoration areas in the original mitigation plan, noting that the logging road was not originally planted. All tree planting will occur during the dormant season between the dates of January 1 and March 15.

In an effort to prevent future vehicular access along the old logging road following implementation of the remediation plan, NCDOT proposes to excavate a trench across the road in the upland section, as shown on the plan sheet and typical section. This area will also be stabilized with seed and mulch appropriately following construction.

Upon successful completion of the remedial work, the logging road will be monitored annually by visual observation for 5 years or until stabilized and approved by US Army Corps of Engineers. Each annual monitoring report will include a narrative, describing the condition of the logging road along with vegetation will be accompanied by photographs, including photographs of non-impacted sections of the road. The monitoring reports will be posted on the NCDOT website annually.

APPENDIX A

IMPERVIOUS DIKE:

Description

This work consists of furnishing, installing, maintaining, and removing an Impervious Dike for the purpose of diverting normal stream flow around the construction site. The Contractor shall construct an impervious dike in such a manner approved by the Engineer. The impervious dike shall not permit seepage of water into the construction site or contribute to siltation of the stream. The impervious dike shall be constructed of an acceptable material in the locations noted on the plans or as directed.

Materials

Acceptable materials shall include but not be limited to sheet piles, sandbags, and/or the placement of an acceptable size stone lined with polypropylene or other impervious fabric.

Earth material shall not be used to construct an impervious dike when it is in direct contact with the stream unless vegetation can be established before contact with the stream takes place.

Measurement and Payment

Impervious Dike will not be measured and paid for under this article. Diversion Pumping will be measured and paid for as provided elsewhere in this contract. This payment shall be considered full compensation for all work including but not limited to furnishing materials, construction, maintenance, and removal of the impervious dike.

NATIVE GRASS SEEDING AND MULCHING:

Bermuda

Native Grass Seeding and Mulching shall be performed on the disturbed areas of wetlands and riparian areas, and adjacent to Stream Relocation construction within a 50 foot zone on both sides of the stream or depression, measured from top of stream bank or center of depression. The stream bank of the stream relocation shall be seeded by a method that does not alter the typical cross section of the stream bank. Native Grass Seeding and Mulching shall also be performed in the permanent soil reinforcement mat section of performed scour holes, and in other areas as directed.

The kinds of seed and fertilizer, and the rates of application of seed, fertilizer, and limestone, shall be as stated below. During periods of overlapping dates, the kind of seed to be used shall be determined. All rates are in pounds per acre.

March 1 - August 31	September 1 - February 28
25# Bermudagrass (hulled)	35# Bermudagrass (unhulled)
6# Indiangrass	6# Indiangrass
8# Little Bluestem	8# Little Bluestem
4# Switchgrass	4# Switchgrass
25# Browntop Millet	35# Rye Grain
500# Fertilizer	500# Fertilizer
4000# Limestone	4000# Limestone

Fertilizer shall be 10-20-20 analysis. A different analysis of fertilizer may be used provided the 1-2-2 ratio is maintained and the rate of application adjusted to provide the same amount of plant food as a 10-20-20 analysis and as directed.

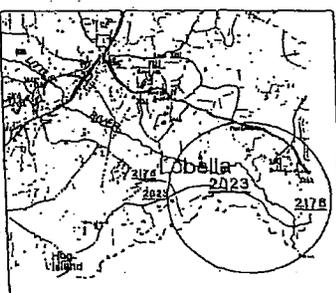
Native Grass Seeding and Mulching shall be performed in accordance with Section 1660 of the Standard Specifications and vegetative cover sufficient to restrain erosion shall be installed immediately following grade establishment.

Temporary Seeding

Fertilizer shall be the same analysis as specified for Seeding and Mulching and applied at the rate of 400 pounds and seeded at the rate of 50 pounds per acre. German Millet or Brown-top Millet shall be used in summer months and rye grain during the remainder of the year. The Engineer will determine the exact dates for using each kind of seed.

Fertilizer Topdressing

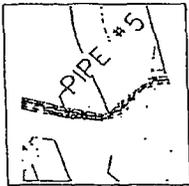
Fertilizer used for topdressing shall be 16-8-8 grade and shall be applied at the rate of 500 pounds per acre. A different analysis of fertilizer may be used provided the 2-1-1 ratio is maintained and the rate of application adjusted to provide the same amount of plant food as 16-8-8 analysis and as directed.



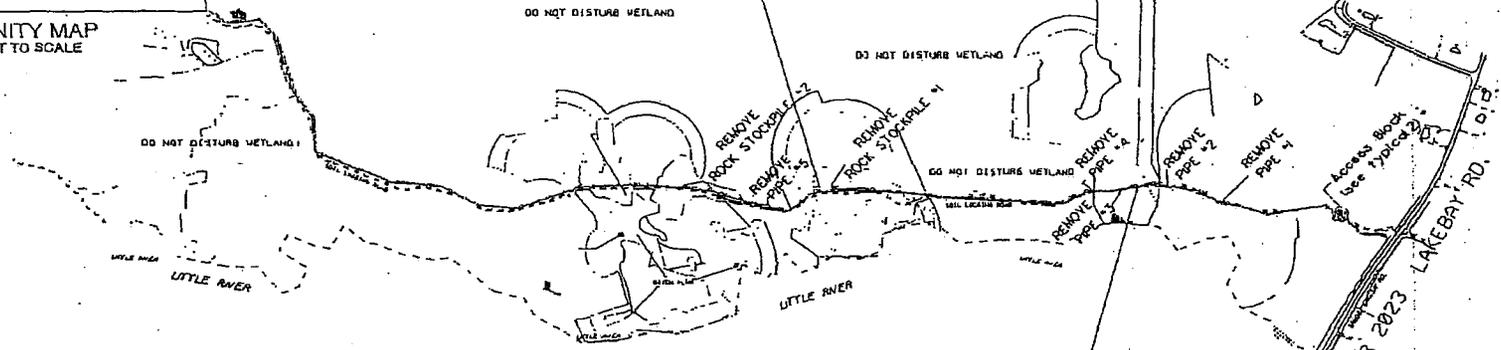
VICINITY MAP
NOT TO SCALE

USACE PERMIT VIOLATION REMEDIATION

**THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS**



ENLARGE VIEW AREA



PROJECT PLAN VIEW

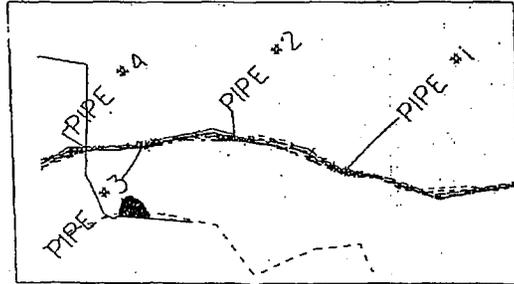
STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS

SUMMARY OF QUANTITIES

SECT.	QUANTITY	UNIT	ITEM DESCRIPTION
800	1	LS	MOBILIZATION
1800	2.4	AG	SEEDING AND MULCHING
	1	LS	GRADING (REMOVAL OF ROAD/ROCK AT PATH)
	2.4	AG	WETLAND REFORESTATION
	2.4	AG	RIPPING
	1	LS	EROSION CONTROL

NOTE: ALL QUANTITIES SHOWN ARE APPROXIMATE
CONTRACTOR MUST VERIFY ALL QUANTITIES
TO HIS OWN SATISFACTION.
ESTIMATE LS GRADING - 300 CY, GRADING (REMOVAL OF ROAD/ROCK AT PATH)
AND 100 LF PIPE REMOVAL (8 X PIPES)

PIPE REMOVAL WILL BE ACCOMPLISHED UTILIZING HCOOT
BEST MANAGEMENT PRACTICES FOR CONSTRUCTION & MAINTENANCE MANUAL



GENERAL LEGEND

-----	APPROX. MITIGATION SITE BOUNDARY
=====	REFERENCE WETLAND (L4)
○	EXISTING BUILDING
---	EXISTING FENCE
---	EXISTING DITCH
---	EXISTING CANAL
○	RESTORATION AREAS (B)
-----	WETLAND ENHANCEMENT / PROTECTION
-----	UPL AND REFORESTATION / PROTECTION
-----	WETLAND RESTORATION
-----	WETLANDS ACRES
-----	ACRES
-----	NET
-----	132 - 327

DATE: FEB 2010
SCALE: 1" = 500'
SHEET 1 OF 3
ESC PROJECT No: 99-024.06

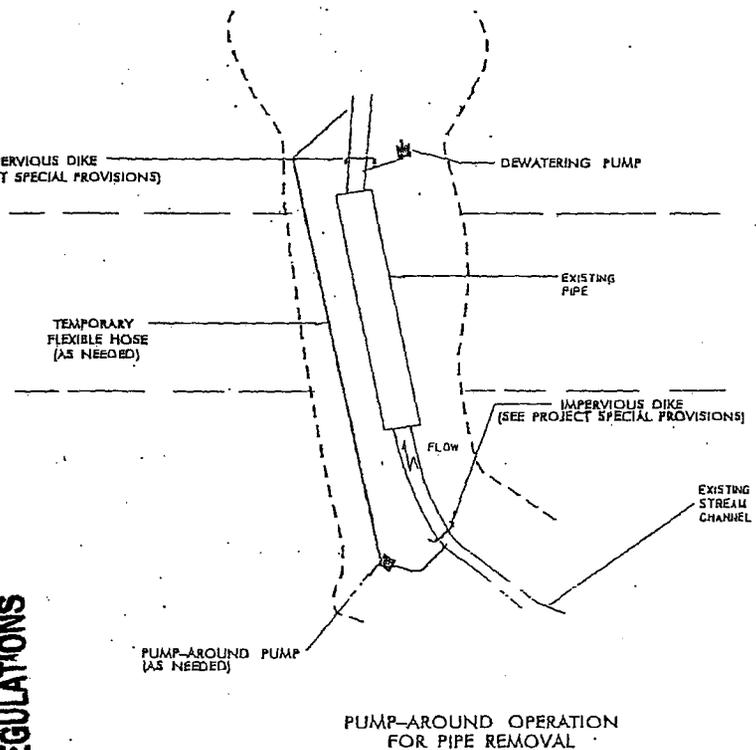
MITIGATION AND MONITORING PLAN
SALT TRACT MITIGATION SITE
MOORE COUNTY, NORTH CAROLINA

NE DEPT 4 NT OF TRANSPORTATION
1110 W. WILSON ST. COLUMBUS, NC 27511
PH: 717.433.1874 FAX: 717.433.1111

USACE PERMIT VIOLATION REMEDIATION DETAILS

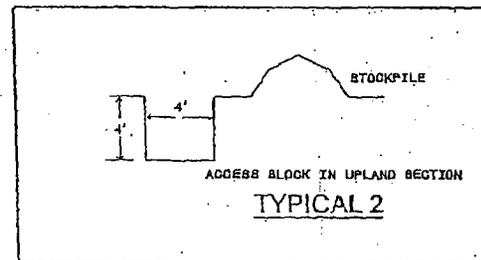
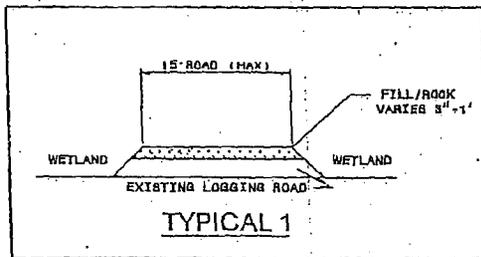
SALT TRACT MITIGATION SITE
MOORE COUNTY, NORTH CAROLINA

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SEQUENCE OF CONSTRUCTION FOR TYPICAL WORK AREA

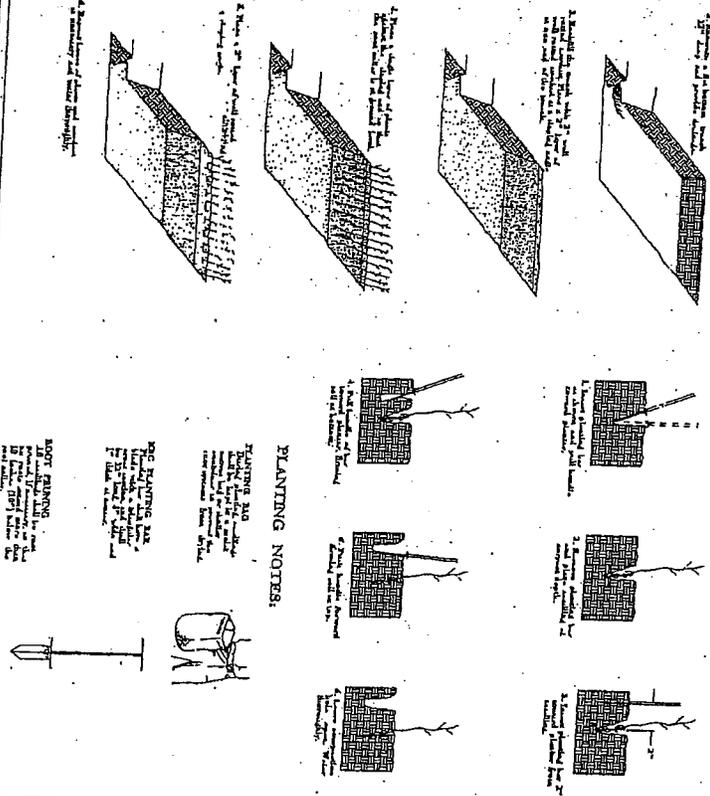
1. INSTALL UPSTREAM PUMP AND TEMPORARY FLEXIBLE HOSE (AS NEEDED).
2. PLACE UPSTREAM IMPERVIOUS DIKE AND BEGIN PUMPING OPERATIONS FOR SURFACE WATER.
3. PLACE DOWNSTREAM IMPERVIOUS DIKE AND PUMPING APPARATUS. DEWATER ENTRAPPED AREA.
4. PERFORM PIPE REMOVAL & GRADING IN THE DRY AND IN ACCORDANCE WITH THE PLANS.
5. ALL GRADING AND STABILIZATION MUST BE COMPLETED PRIOR TO REMOVAL OF IMPERVIOUS DIKES WITH SEEDING, MULCHING AND MATTING.



PLANTING DETAILS
SEEDLING / INNER BAREROOT PLANTING DETAIL

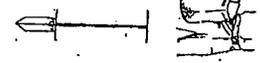
HEALING IN

DOUBLE PLANTING METHOD
USING THE KBC PLANTING BAR



PLANTING NOTES:

THE PLANTING BAR
IS USED TO HOLD THE PLANTING BAREROOT IN PLACE
AND TO HOLD THE SEEDLING IN PLACE.
THE PLANTING BAR IS USED TO HOLD THE PLANTING BAREROOT
IN PLACE AND TO HOLD THE SEEDLING IN PLACE.
THE PLANTING BAR IS USED TO HOLD THE PLANTING BAREROOT
IN PLACE AND TO HOLD THE SEEDLING IN PLACE.



SALT WETLAND PLANTING

WETLAND TREE PLANTING

WETLAND TREE SIZE AND PLANTING SHALL CONFORM TO THE FOLLOWING:

NESEA SYLVATICA var. BIFLORA	SWAMP BLACK GUM	BAREROOT	SEEDLING
OUERGUS NIGRA	WATER OAK	BAREROOT	SEEDLING
TAXODIUM DISTICHUM	DAUDCYPRESS	BAREROOT	SEEDLING
OUERGUS PERILOUS	WILLOW OAK	BAREROOT	SEEDLING
OUERGUS LAURIFOLIA	LAUREL OAK	BAREROOT	SEEDLING

THE REFORESTATION SHALL BE PLANTED 6 TO 10' ON CENTER RANDOM SPACING,
AVERAGING 8' ON CENTER APPROXIMATELY 600 PLANTS PER ACRE.

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REGULATIONS

WETLAND REFORESTATION
DETAIL SHEET

WETLAND REFORESTATION UNIT
WETLAND REFORESTATION UNIT
WETLAND REFORESTATION UNIT