



Eastern Band of Cherokee Indians (EBCI)
Water Quality Office (WQO)
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Water Quality Office
2000 Old #4 Road
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401 Water Quality Certification **Grant with Special Condition**

Applicant: NC Department of Transportation

Issued: 10/25/2021

Pursuant to CWA Section 401 (33 U.S.C. 1251, 1341), the Eastern Band of Cherokee Indians (EBCI) is required to certify whether the activity described below will not violate applicable water quality standards. Accordingly, The EBCI Water Quality Office (WQO) requires reasonable assurance that the activity will not violate provisions of EBCI Water Quality Standards, Administrative Procedure Act, Cherokee Code, Chapter 150, provisions of EBCI Fish & Game Regulations and Guidelines, and other EBCI water protection provisions, law or regulations.

The Eastern Band of Cherokee Indians Water Quality Office (WQO) issues this letter to serve as notification of water quality certification as required for the road construction/upgrades to NC 143 from SR 1223 to 0.5 miles north of the Appalachian Trail, Graham County NC.

Based on information submitted as part of the application for a 401 Water Quality Certification, followed by a Technical Review, the EBCI Water Quality Office and EBCI Fish & Game Office has concluded that special conditions are required. The logging road at Bowman Lane should not be accessed by equipment at any time. This logging road is located in a wetland that contains waters with macroinvertebrates, indicating pristine habitat, and must not be compromised.

Therefore, the EBCI WQO is issuing this grant with special condition of 401 Certification, also subject to the 401 General Conditions attached. This certification is issued to the NC DOT for the road construction/upgrades to NC 143 from SR 1223 to 0.5 miles north of the Appalachian Trail, Graham County NC.

I, Aaron Ducker grant with special and general conditions CWA 401 Water Quality Certification to the NC DOT for road construction.

Signed

Cc: Mr. Michael Bolt, Water Quality Supervisor

EBCI Water Quality Office
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EBCI 401 CERTIFICATION GENERAL CONDITIONS.

1. Measures shall be taken to prevent or control spills of fuels, lubricants or other toxic materials used in construction from entering the watercourse.
2. All dredged material shall be removed to an upland location and/or graded on adjacent areas (so long as such areas are not regulated wetlands), to obtain original streamside elevations, i.e. overbank flooding shall not be artificially obstructed.
3. In areas not riprapped or otherwise stabilized, revegetation of stream banks and riparian zones shall occur concurrently with project progression. At a minimum, revegetation will approximate pre-disturbance conditions.
4. To the maximum extent practicable, all instream work under this certification shall be performed during low flow.
5. Heavy equipment, e.g. bulldozers, backhoes, draglines, etc., if required for this project, should not be used or operated within the stream channel. In those instances where such instream work is unavoidable, then it shall be performed in such a manner and duration as to minimize suspension of sediments and disturbance to substrates and bank or riparian vegetation.
6. Any fill or riprap including refuse fill, shall be of such composition that it will not adversely affect the biological, chemical or physical properties of the receiving waters and/or cause violations of water quality standards. If riprap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created because of its placement.
7. If there are water supply intakes located downstream that may be affected by increased turbidity and suspended solids, the permittee shall notify the operator when work will be done.
8. Removal of existing riparian vegetation should be restricted to the minimum necessary for project construction.
9. Should evidence of stream pollution or jurisdictional wetland impairment and/or violations of water quality standards occur as a result of this activity (either from a spill or other forms of water pollution), the EBCI Water Quality Section shall be notified immediately by calling 828-359-6772.

* EBCI Water Quality Standards are incorporated as Section 113E of the Cherokee Code.