



**Eastern Band of Cherokee Indians  
Natural Resources  
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TO: North Carolina Department of Transportation  
FROM: Aaron Ducker, Environmental Aquatic Specialist

SUBJECT: EBCI Natural Resources comments on NC Department of Transportation road construction/upgrades to NC 143 from SR 1223 to 0.5 miles north of the Appalachian Trail, Graham County NC.

The Eastern Band of Cherokee Indians (EBCI) Department of Natural Resources is requesting authorization under the Army Corps of Engineers 404 Nationwide Permit program as a representative of the NC Department of Transportation for road construction/upgrades to NC 143 from SR 1223 to 0.5 miles north of the Appalachian Trail, Graham County, NC.

The NCDOT plans to construct/upgrade NC 143, from SR 1223 to 0.5 miles north of the Appalachian Trail. Near the Appalachian Trail, they will construct both eastbound and westbound climbing lanes and eight-foot paved shoulders on NC 143. A land bridge would create a way to cross for both pedestrian users of the Appalachian Trail and wildlife. All work will be completed in the dry and all best management practices will be applied to the project area, following the special conditions required by the EBCI 401. The pristine wetland and Sweetwater Creek will be avoided. Comments from the EBCI Natural Resources program are offered for your consideration under provisions of the Clean Water Act of 1977 (33 U.S.C. 466 et. Seq.) and the Memorandum of Agreement (MOA) developed between the U.S. Army Corps of Engineers (Wilmington District) and the EBCI.

The EBCI do not have fish records from Sweetwater Creek. Sweetwater Creek holds a WS-III (Water Supply III) and Tr (Trout Waters) classification under the NCDEQ. WS-III waters are used as sources of water supply for drinking, culinary, or food processing purposes where a more protective WS-I or II classification is not feasible. These waters are also protected for Class C uses. WS-III waters are generally in low to moderately developed watersheds. Tr waters are a supplemental classification intended to protect freshwaters which have conditions which shall sustain and allow for trout propagation and survival of stocked trout on a year-round basis. This classification is not the same as the NC Wildlife Resources Commission's Designated Public Mountain Trout Waters designation. The EBCI Natural Resources supports the permitting of this project with the following recommendations:

- 1) Stream disturbance in the creek sand in the adjacent 25-foot buffer shall be avoided from October 15<sup>th</sup> to April 15<sup>th</sup> to avoid impacts to spawning wild trout downstream of the project area. Project staging and preparation can proceed during this period assuming stream channel disturbance is avoided.
- 2) The logging road at Bowman Lane should not be accessed by equipment at any time, following the EBCI 401 special condition.
- 3) Measures to control sediment and erosion should be installed before any ground-disturbing activities occur to minimize effects on downstream aquatic resources. Herbaceous vegetation should be planted on all bare soil within 15 days of ground disturbing activities to provide long-term erosion control. Disturbed soils in steep slopes and riparian areas should be stabilized with heavy fiber matting in addition to seeding. Matting should be secured in place with staples, stakes, or wherever possible, live stakes of native trees. Discharging hydro-seed mixtures and washing out hydro-seeders and other equipment in or adjacent to surface waters is prohibited.
- 4) Heavy equipment should be utilized from the stream bank and not in the channel whenever feasible. All mechanized equipment operated near surface waters should be inspected and maintained regularly to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials. Uncured concrete must not contact the stream because this can kill fish.
- 5) All work within the stream should be completed in the dry with the use of temporary diversion structures. Materials used for flow diversions should be removed from the stream bed after completing the construction work.
- 6) Any culverts that are being installed for this project should be properly imbedded in the thalweg and installed at the stream grade. If gradient of any new culvert is too great, aquatic organism passage may not be possible.
- 7) Riprap placed for bank stabilization should be limited to the stream bank below the high-water mark and vegetation should be used above. Rip rap should not be placed in the stream channel in a manner that obstructs aquatic life passage.

Thank you for the opportunity to review and comment on this regulatory action. Please contact me at (828) 359-6774 if you have any questions about these comments or require further assistance.

Sincerely,



Aaron Ducker  
Environmental Aquatic Specialist  
EBCI Natural Resources

Cc: Mr. Michael LaVoie, Program Manager