WQC #3641

CAMA PERMIT 401 WATER QUALITY CERTIFICATION AND WRITTEN DIVISION OF WATER QUALITY CONCURRENCE FOR SPECIFIED BOAT RAMPS, BULKHEADS, SHADING, PIERS, MAINTENANCE DREDGING, UTILITY LINES AND UPLAND DEVELOPMENT

GENERAL 401 WATER QUALITY CERTIFICATION FOR PROJECTS ELIGIBLE FOR CORPS OF ENGINEERS GENERAL PERMIT NUMBER 198000291 (ISSUED TO THE NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT) OR CORPS OF ENGINEERS GENERAL PERMIT NUMBERS 198000291,198700056, 197800080, 197800125, and 198200277 AND NATIONWIDE PERMIT NUMBERS 3, 12, 13, and 33 WHEN APPLIED TO CAMA PERMITS, **AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)**

This General Certification and written concurrence is issued in conformity with requirement of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality Regulations in 15 NCAC 2H, Section .0500 and 15 NCAC 2B .0200 for the discharge of fill material as described in General Permit 198000291 and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 2B .0200. This Certification replaces Water Quality Certification Number 3351 issued on March 18, 2002 and WQC 3490 issued March 28, 2003. This Water Quality Certification (WQC) is rescinded when the Corps of Engineers re-authorizes these Nationwide or Regional General Permits or when deemed appropriate by the Director of the Division of Water Quality (DWQ).

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with conditions hereinafter set forth.

Conditions of Certification:

1. Activities covered by this General Certification do not require written concurrence from the Division of Water Quality as long as they comply with all conditions of this General Certification, the CAMA Permit and General Permit 198000291. If any condition in this Certification cannot be met, then the applicant is required to submit an application and receive written concurrence from DWQ prior to beginning work;

2. The following activities do not require written concurrence and do not require payment of the 401 Water Quality Certification fee–
   - Boat Ramps and associated access (i.e., roads and parking lots) that involve the excavation or filling of less than 500 square feet total of wetland and open water area, with the exception that the excavation or filling of coastal wetlands may not exceed 100 square feet and except when associated with new marinas, subdivisions and commercial development);
   - Shoreline protection measures that tie into existing bulkheads, land or other shoreline protection measures or do not extend waterward of the water line more than 10 feet, provided that the activity will not involve the excavation or filling of any SAV or shellfish resources and impacts less than 500 square feet of vegetated wetlands or less than 100 square feet of coastal wetlands;
   - Piers and docks designed to accommodate fewer than 10 vessels and the water depth is greater than three feet;
   - Maintenance dredging of less than 0.5 acres of water or non-vegetated wetlands provided that the applicant can provide written documentation showing the historic dimensions of the dredged channel, and no Submerged Aquatic Vegetation or shellfish beds are excavated or filled;
   - Projects that only involve shading of waters or wetlands;
   - Utility lines, except wastewater lines and potable water discharge lines which are subject to an NPDES Permit, as long as wetland or water impacts are temporary;

- Upland development which involves no more than 1/10 of an acre of excavation or filling of non-coastal wetlands, with the exception that no more than 2,000 square feet of the non-coastal excavation or filling may take place within an Area of Environmental Concern. For the purposes of this area calculation, the excavation or filling impacts of boat ramps, bulkheads or other shoreline stabilization measures must be considered. The applicant must comply with all applicable coastal stormwater rules;
- Single family home construction that results in fill of 404 wetlands as long as written concurrence is not required from DWQ for the applicable Corps of Engineers Nationwide Permit.

3. Activities authorized by Coastal Area Management Act (CAMA) General permits do not require written concurrence from the Division of Water Quality as long as they comply with all other conditions of this General Certification;

4. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees. The fee shall be collected and distributed between the two agencies by the Division of Coastal Management;

5. This certification does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required. Specifically, the permitee shall contact the North Carolina Division of Water Quality to determine consistency with the Neuse or Tar-Pamlico Buffer Rules (15A NCAC 2B .0233 and .0259) (or any other river basins with Buffer Rules in effect at the time of application). Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse and Tar-Pamlico River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0233 and .0259. All new development shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification;

6. Appropriate sediment and erosion control practices that equal or exceed those outlined in the most recent edition of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" (available from the Division of Land Resources in the DENR Regional or Central Offices) shall be utilized to prevent exceedances of the appropriate turbidity water quality standard (50 NTU's in freshwater streams and rivers; 25 NTU's in all saltwater classes, and all lakes and reservoirs);

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

8. If an environmental document is required, this Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse;

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

10. This General Certification is not applicable to a project where the Director of the Division of Water Quality or the Director of the Division of Coastal Management have determined, based on an initial review of the application, that written concurrence is needed because of concerns related to water quality or aquatic life.

11. Additional site-specific conditions may be added to projects which have applied for CAMA major permits which are proposed under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

12. If written concurrence is required for this activity, DWQ shall be sent a written notification within 30 days of completion of the wetland or stream impact or upon expiration of the 404 Permit or 401 Certification. Such notification shall be sent to the Central Office of the Division of Water Quality on the form provided with the Certification, shall be accompanied by a map depicting the work completed, and shall be signed by the land owner or other responsible party;

13. Applications for riprap groins proposed in accordance with 15A NCAC 07H .1401 (NC Division of Coastal Management General Permit for construction of Wooden and Riprap Groins in Estuarine and Public Trust Waters) must meet all the specific conditions for design and construction specified in 15A NCAC 07H .1405.

14. Projects with any impacts to streams, wetlands, and/or waters that have received a Notice of Violation from the Division of Land Resources and/or the Division of Water Quality are required to submit a complete application and receive written concurrence to use this Certification regardless of the proposed impact amount to streams, wetlands, and waters.

15. .When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed;

16. Standard Erosion and Sediment Control Practices:

    Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices:

    a. Erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
    b. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
    c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
    d. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
    e. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

17. No Impacts Beyond those in Application

    No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparianareas beyond the footprint of the impacts depicted in the Pre-construction Notification. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

18. No Sediment and Erosion Control Measures in Wetlands

    Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion controldevices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within six months of the date that the Division of Land Resources or locally delegated program has released the project.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this Certification for the project and may result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity if it is determined that the project is likely to have a significant adverse effect upon water quality including state or federally listed endangered or threatened aquatic species or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: 19 March 2007

DIVISION OF WATER QUALITY

By

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Director

WQC # 3641