

**STATE of NORTH CAROLINA
DEPARTMENT of ENVIRONMENT and NATURAL RESOURCES
DIVISION of WATER QUALITY**

**PERMIT NO. NCS000517
TO DISCHARGE STORMWATER UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the regulations promulgated and adopted by the North Carolina Environmental Management Commission, and the Federal Water Pollution Control Act, as amended,

The Fund for Sandy Point North Carolina, LLC

is hereby authorized to discharge stormwater from their separate storm sewer system located in:

Chowan County

to receiving waters, Albemarle Sound and unnamed tributaries to Albemarle Sound, within the Pasquotank River Basin in accordance with the discharge limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, VI, VII and VIII hereof.

This permit shall become effective [Date].

This permit and the authorization to discharge shall expire at midnight on [Date].

Signed this day [Date].

for Charles Wakild, P.E., Director
Division of Water Quality
By the Authority of the Environmental Management Commission

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TABLE OF CONTENTS

PART I	PERMIT COVERAGE
PART II	FINAL LIMITATIONS AND CONTROLS FOR PERMITTED DISCHARGES
SECTION A:	PROGRAM IMPLEMENTATION
SECTION B:	PUBLIC EDUCATION AND OUTREACH
SECTION C:	PUBLIC INVOLVEMENT AND PARTICIPATION
SECTION D:	ILLICIT DISCHARGE DETECTION AND ELIMINATION
SECTION E:	CONSTRUCTION SITE RUNOFF CONTROLS
SECTION F:	POST-CONSTRUCTION SITE RUNOFF CONTROLS
SECTION G:	POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR FSP ACTIVITIES AND OPERATIONS
SECTION H:	WATER QUALITY/HYDRAULIC ASSESSMENT AND MONITORING
PART III	PROGRAM ASSESSMENT
PART IV	REPORTING AND RECORD KEEPING REQUIREMENTS
PART V	STANDARD CONDITIONS
SECTION A:	COMPLIANCE AND LIABILITY
SECTION B:	CONSTRUCTION, OPERATION AND MAINTENANCE OF POLLUTION CONTROLS
SECTION C:	MONITORING AND RECORDS
PART VI	LIMITATIONS REOPENER
PART VII	ADMINISTERING AND COMPLIANCE MONITORING FEE REQUIREMENTS
PART VIII	DEFINITIONS
ATTACHMENT A	PHASE I PROJECT DATA

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PART I PERMIT COVERAGE

1. During the period beginning on the effective date of the permit and lasting until expiration, The Fund for Sandy Point North Carolina, LLC (“Permittee” or “FSP”), is authorized to discharge stormwater from the separate storm sewer system to receiving waters, Albemarle Sound and unnamed tributaries to Albemarle Sound, within the Pasquotank River Basin. Such discharge will be controlled, limited and monitored in accordance with the Permittee’s Phase II NPDES Stormwater Permit Application, specifically including the Stormwater Management Program Report, and any approved modifications thereto. The approach to stormwater management described in Permittee’s application and report is hereafter referred to as the “Stormwater Plan.”
2. All discharges authorized herein shall be adequately managed in accordance with the terms and conditions of this permit. Any other point source discharge to surface waters of the state is prohibited unless it is an allowable non-stormwater discharge or is covered by another permit, authorization, or approval.
3. The issuance of this permit does not preclude the Permittee from complying with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.
4. This permit covers activities associated with the discharge of stormwater from the separate storm sewer system within the Sandy Point Development (the Permittee’s 930-acre development in Chowan County, North Carolina, also hereafter referred to as the “Sandy Point”) as constructed, operated and maintained in compliance with the provisions of 15A NCAC 2H.1000 (hereafter referred to as the “Stormwater Rules”) and the approved Stormwater Plan, including specifications and other supporting data submitted, on file with and approved by the Division of Water Quality (“Division”) and considered a part of this permit to control potential pollution from the separate storm sewer system. The permit applies to current and future development by the Permittee. Contemporaneously with the issuance of this permit, the Division has approved, pursuant to 15A NCAC 2H.1000, the first phase of the Sandy Point Development as defined in the Permittee’s application. Project data for the first phase of development is included as Attachment A to this permit. All future phases of the Sandy Point shall require approval by the Division pursuant to 15A NCAC 2H.1000 but shall not require modifications to this NPDES permit.
6. Under the authority of Section 402(p) of the Clean Water Act and implementing regulations 40 CFR Part 122, 123 and 124, North Carolina General Statutes 143-215.1 and in accordance with the approved Stormwater Plan, all provisions contained and referenced in the Stormwater Plan are enforceable parts of this permit. The Permittee will develop and implement its approved Stormwater Plan in accordance with Section 402(p)(3)(B) of the Clean Water Act, provisions outlined by the Director, and the provisions of this permit.
7. The permit requires the development and proper implementation of the Stormwater Plan. The purpose of the Stormwater Plan is to reduce the discharge of pollutants from the separate storm sewer system to the maximum extent practicable, to protect water quality, and to satisfy the applicable water quality requirements of the Clean Water Act. Implementation of best management practices consistent with the provisions of the Stormwater Plan constitutes compliance with the standard of reducing pollutants to the maximum extent practicable. Successive iterations of the Stormwater Plan and other components of this permit will be driven by the objective of assuring that discharges do not cause or contribute to the violation of water

quality standards through the expansion and tailoring of management measures within the scope of the Stormwater Plan.

8. The permit authorizes the point source discharge of stormwater runoff from the separate storm sewer system. In addition, discharges of non-stormwater are also authorized through the separate storm sewer system of the Permittee if such discharges are:
- (a) Permitted by, and in compliance with, another NPDES discharge permit including discharges of process and non-process wastewater, and stormwater associated with industrial activity; or
 - (b) Determined to be incidental non-stormwater flows that do not significantly impact water quality, which may include:
 - water line flushing;
 - landscape irrigation;
 - rising groundwaters;
 - uncontaminated groundwater infiltration;
 - uncontaminated pumped groundwater;
 - discharges from potable water sources;
 - foundation drains;
 - air conditioning condensate (commercial/residential);
 - irrigation waters;
 - springs;
 - water from crawl space pumps;
 - footing drains;
 - lawn watering;
 - residential and charity car washing;
 - flows from riparian habitats and wetlands;
 - dechlorinated swimming pool discharges;
 - street wash water;
 - flows from emergency fire fighting.

The Division may require that non-stormwater flows of this type be controlled by the Permittee's Stormwater Plan.

9. Approved plans and specifications for Sandy Point are incorporated by reference and are enforceable parts of the permit.
10. All stormwater collection and treatment systems must be located in either dedicated common areas or recorded easements. The final plats for the Sandy Point will be recorded showing all such required common areas and easements, in accordance with approved plans.
11. No homeowner/lot owner/developer shall be allowed to fill in, alter, or pipe any vegetative stormwater management features (such as swales) shown on the approved plans as part of the stormwater management system without the Permittee having submitted a revision to the permit and received approval from the Division.
12. All references in this permit to "the public" and "the community" refer to residents of the Sandy Point Development, as well as persons working at or visiting the Sandy Point Development.

PART II FINAL LIMITATIONS AND CONTROLS FOR PERMITTED DISCHARGES**SECTION A: PROGRAM IMPLEMENTATION**

The permittee will implement, manage and oversee all provisions of its Stormwater Plan to reduce pollutants discharged from the separate storm sewer system. This includes, but is not limited to, the following areas:

1. The permittee will develop and maintain adequate legal mechanisms, such as restrictive covenants, regulations, policies and procedures, to implement all provisions of the Stormwater Plan. The permittee will keep the Division advised of the status of its legal mechanisms and will develop these mechanisms in accordance with the schedule outlined in the Stormwater Plan.
2. The permittee's Stormwater Plan will be implemented and managed such that the discharge of pollutants from the separate storm sewer system is reduced to the maximum extent practicable. It is anticipated that in order to meet this provision, implementation of the Stormwater Plan will occur with emphasis given to priority areas and to management measures and programs that are most effective and efficient at varying stages of the plan's implementation.
3. The permittee will implement the components of the Stormwater Plan to prohibit, to the maximum extent practicable, illicit connections, spills and illegal dumping into the separate storm sewer system.
4. The permittee will implement provisions of the Stormwater Plan as appropriate to monitor and assess the performance of the various management measures that are a part of the Stormwater Plan. This will include the provisions of this permit.
5. The permittee will maintain adequate funding and staffing to implement and manage the provisions of the Stormwater Plan.
6. The permittee will implement appropriate education, training, outreach, and public involvement programs to support the objectives of this permit and the Stormwater Plan.
7. The permittee will implement a program to reduce pollution from construction site runoff as described in the Stormwater Plan and in accordance with this permit.
8. The permittee will implement a post-construction site runoff control program to regulate new development and redevelopment by requiring structural and non-structural best management practices to protect water quality, to reduce pollutant loading, and to minimize post-development impacts. This program will include provisions for long-term operation and maintenance of BMPs.
9. The permittee will evaluate activities and operations and develop and implement an appropriate program for operation and maintenance of facilities to reduce the potential for stormwater pollution.
10. Proposed permit modifications must be submitted to the Director for approval.

SECTION B: PUBLIC EDUCATION AND OUTREACH

1. Objectives for Public Education and Outreach

- (a) Distribute educational materials to the community.
- (b) Conduct outreach activities.
- (c) Raise awareness on the causes and impacts of stormwater pollution.
- (d) Inform the community on steps they can take to reduce or prevent stormwater pollution.

2. BMPs for Public Education and Outreach

The permittee shall implement the following BMPs to meet the objectives of the Public Education and Outreach Program.

BMP	Measurable Goals
(a) Resident education and outreach program	Develop and implement within 6 months of occupancy of any residence at Sandy Point, excluding the occupancy of any residence as a sales office for Sandy Point, an educational campaign to inform residential property owners on illicit discharges, sources of pollution in stormwater runoff and what they can do to minimize or eliminate pollution in stormwater runoff.
(b) Business education and outreach program	Develop and implement within 6 months of occupancy of any commercial building at Sandy Point, excluding the occupancy of any commercial building as a sales office for Sandy Point, an educational campaign to inform businesses on illicit discharges, reporting, proper waste disposal, sources of pollution in stormwater runoff and what they can do to minimize or eliminate pollution in stormwater runoff.
(c) Education materials	Develop within 6 months of occupancy of any residential and/or commercial buildings at Sandy Point, excluding the occupancy of any commercial building that serve as sales office for Sandy Point, general stormwater educational materials for residential property owners and businesses. Instead of developing its own materials, the permittee may rely on state-supplied Public Education and Outreach materials, as available, when implementing its own program. Include information on steps to reduce or eliminate pollution sources including proper disposal of waste materials.
(d) Education material dissemination	Distribute within 6 months of occupancy of any commercial building at Sandy Point, excluding the occupancy of any commercial building as a sales office for Sandy Point, written educational material to residential property owners and businesses via mailings, in community central areas and other heavy traffic areas.
(e) Presentations	Present educational information within 6 months of occupancy of any commercial building at Sandy Point, excluding the occupancy of any commercial building as a sales office for Sandy Point, at homeowners association, business association and other community meetings.

SECTION C: PUBLIC INVOLVEMENT AND PARTICIPATION

1. Objectives for Public Involvement and Participation

Provide opportunities for the community to participate in program development and implementation.

2. BMPs for Public Involvement and Participation

The permittee shall implement the following BMP to meet the objectives of the Public Involvement and Participation Program.

BMP	Measurable Goals
(a) Administer a Public Involvement Program	Conduct annual public meetings within 6 months of occupancy of any commercial building at Sandy Point, excluding the occupancy of any commercial building as a sales office for Sandy Point, to allow residential property owners an opportunity to review and comment on the Stormwater Plan and to promote ongoing participation in the stormwater program.

SECTION D: ILLICIT DISCHARGE DETECTION AND ELIMINATION

1. Objectives for Illicit Discharge Detection and Elimination

- (a) Detect and eliminate illicit discharges, including spills and illegal dumping.
- (b) Address significant contributors of pollutants to the separate storm sewer system. The permittee may require specific controls for a category of discharges, or prohibit that discharge completely, if one or more of these categories of sources are identified as a significant contributor of pollutants to the separate storm sewer system.
- (c) Implement appropriate enforcement procedures and actions.
- (d) Develop a storm sewer system map showing all outfalls and waters receiving discharges.
- (e) Inform employees, businesses, and the public of hazards associated with illegal discharges and improper disposal of waste.

2. BMPs for Illicit Discharge Detection and Elimination

Develop and implement within 6 months of occupancy of any residence and/or commercial building at Sandy Point an Illicit Discharge Detection and Elimination Program with the following BMPs:

BMP	Measurable Goals
(a) Legal authorities	Establish and maintain adequate legal authorities to prohibit illicit discharges and enforce the approved Illicit Discharge Detection and Elimination Program.
(b) Storm Sewer and Conveyance System Base Map	Identify location and specification for all stormwater conveyances in the as-built site plans. Continue to identify, locate, and update map of stormwater conveyances in the as-built site plans as new phases of development progress.
(c) Illicit discharge detection procedures	Implement an inspection program to detect illicit discharge into the stormwater conveyance system including the emergency overflow floodwaters. Establish procedures for tracing the sources of illicit discharges and for removing the sources. Develop procedures for identification of priority areas likely to have illicit discharges.
(d) Staff training	Conduct training for staff on detecting and reporting illicit discharges.
(e) Public education	Inform the public of hazards associated with illegal discharges and improper disposal of waste.
(f) Establish a public reporting mechanism	Establish and publicize a reporting mechanism for the public to report illicit discharges.

SECTION E: CONSTRUCTION SITE RUNOFF CONTROLS

1. Pursuant to 40 CFR 122.35(b) and the maximum extent practicable (MEP) standard, the permittee may rely on the NCDENR Division of Land Resources (DLR) Sediment and Erosion Control Program to comply with this minimum measure. The NCDENR Division of Land Resources (DLR) Sediment and Erosion Control Program effectively meets the MEP standard for Construction Site Runoff Controls by permitting and controlling development activities disturbing one or more acres of land surface and those activities less than one acre that are part of a larger common plan of development as authorized under the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code. The NCDENR Division of Land Resources (DLR) Sediment and Erosion Control Program continues to be monitored by the EPA to ensure the State effectively meets the MEP standard established by the Sediment Pollution Control Act of 1973 and Chapter 4 of Title 15A of the North Carolina Administrative Code.
2. The NCG010000 permit establishes requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality.
3. The permittee shall provide and promote a means for the public to notify the appropriate authorities of observed erosion and sedimentation problems. The permittee may implement a plan promoting the existence of the NCDENR, Division of Land Resources "Stop Mud" hotline to meet the requirements of this paragraph.

SECTION F: POST-CONSTRUCTION SITE RUNOFF CONTROLS

1. Objectives for Post-Construction Site Runoff Controls

- (a) Manage stormwater runoff from new development / redevelopment that drains to the separate storm sewer system and disturbs an acre or more of land surface, including development /redevelopment of less than an acre that is part of a larger common plan of development.
- (b) Provide a mechanism to require long-term operation and maintenance of BMPs.
- (c) Ensure controls are in place to minimize water quality impacts.

2. State Stormwater Permit

- (a) FSP shall meet the requirements of the State’s post-construction program for construction projects that are performed by, or under contract for, the permittee.
- (b) FSP shall submit to the Director and shall have received approval for revised plans, specifications, and calculations prior to construction, for any modification to the approved plans, including, but not limited to, those listed below:
 - i. Any revision to any item shown on the approved plans, including the stormwater management measures, built-upon area, details, etc.
 - ii. Project name change.
 - iii. Transfer of ownership.
 - iv. Redesign or addition to the approved amount of built-upon area or to the drainage area.
 - v. Further subdivision, acquisition, lease or sale of all or part of the project area.
 - vi. Filling in, altering, or piping of any vegetative conveyance shown on the approved plan.

3. BMPs for Post-Construction Site Runoff Controls

The permittee shall implement the following BMPs to meet the objectives of the Post-Construction Stormwater Management Program.

BMP	Measurable Goals
(a) Provide a mechanism to require long-term operation and maintenance of structural BMPs.	FSP shall implement an operation and maintenance plan for the long-term operation of each required structural BMP. The operation and maintenance plan shall require the owner of each structural BMP to perform and maintain a record of annual inspections of each structural BMP. Annual inspection of permitted structural BMPs shall be performed by a qualified professional.
(b) Annual Maintenance Inspection of structural BMPs	Conduct and document annual maintenance inspections of all structural BMPs. Annual maintenance inspections shall be performed by a qualified professional.
(c) Deed restrictions and protective covenants	Deed restrictions and protective covenants are required by FSP to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans.

SECTION G: POLLUTION PREVENTION AND GOOD HOUSEKEEPING FOR FSP ACTIVITIES AND OPERATIONS

1. Objective for Pollution Prevention and Good Housekeeping for FSP Activities and Operations

Prevent or reduce stormwater pollution from FSP activities and operations.

2. BMPs for the Pollution Prevention and Good Housekeeping for FSP Activities and Operations

Within 24 months of occupancy of any residence and/or commercial building at Sandy Point, the permittee shall develop and implement the following BMPs to meet the objectives of the Pollution Prevention and Good Housekeeping Program.

BMP	Measurable Goals
(a) Develop an operation and maintenance program	<p>Develop and implement an Operation and Maintenance Plan that has the ultimate goal of preventing or reducing pollutant runoff from FSP activities and operations.</p> <p>FSP shall annually review and amend as appropriate the Operation and Maintenance Plan as additional development of FSP progresses.</p>
(b) Inspection and evaluation of facilities, operations, and the separate storm sewer system and associated structural BMPs.	<p>Develop and maintain an inventory of all facilities and operations owned and operated by the permittee with the potential for generating polluted stormwater runoff, including the separate storm sewer system and associated structural BMPs. Inspect potential sources of polluted runoff, the stormwater controls, and conveyance systems. Evaluate the sources, document deficiencies, plan corrective actions, and document the accomplishment of corrective actions.</p>
(c) Operation and Maintenance Records	<p>Records of maintenance activities must be kept and made available upon request to authorized personnel of DWQ. The records will indicate the date, activity, name of person performing the work and what actions were taken.</p>
(d) Spill response procedures	<p>Develop and implement spill response procedures that will be implemented to minimize the risk to human health and the environment.</p>
(e) Vacuum Sweeping	<p>At a minimum, vacuum sweeping of the permeable pavement surfaces shall be conducted 2 times per year (every 6 months) to remove trapped fines and prevent clogging.</p>
(f) Training	<p>All stormwater maintenance staff must be properly trained to identify and remove pollutants including sediments from the storm sewer system.</p> <p>Provide specific training on pollution prevention and good housekeeping procedures developed for FSP activities and operations.</p> <p>Provide training on spill response procedures to appropriate staff.</p>

SECTION H: WATER QUALITY/HYDRAULIC ASSESSMENT AND MONITORING

1. Objective for Water Quality/Hydraulic Assessment and Monitoring

Evaluate the impacts on water quality and other impacts of the New Urban Waterfront Area development in North Carolina.

2. BMPs for Water Quality/Hydraulic Assessment and Monitoring

Within 18 months of occupancy of any residence and/or commercial building at Sandy Point the permittee shall develop and implement the following BMPs to meet the objectives of the Water Quality/Hydraulic Assessment and Monitoring Program and shall notify the Division prior to modification of any goals.

BMP	Measurable Goals
(a) Water Quality/Hydraulic Assessment and Monitoring Plan	Develop a Water Quality/Hydraulic Assessment and Monitoring Plan to be submitted to DWQ. The Plan shall include a schedule for implementing the proposed assessment and monitoring activities.
(b) Water Quality/Hydraulic Monitoring	Initiate implementation of the Water Quality/Hydraulic Assessment and Monitoring Plan within 6 months of receiving Plan approval from DWQ. In accordance with the implementation schedule, the permittee shall provide in subsequent annual reports a summary of the assessment and monitoring activities performed within the reporting period.
(c) Revisions to the Water Quality/Hydraulic Assessment and Monitoring Plan	FSP shall annually review, amend as appropriate, and submit to DWQ for approval any amendments of, the Water Quality/Hydraulic Assessment and Monitoring Plan as additional development of Sandy Point progresses.

PART III PROGRAM ASSESSMENT

1. Implementation of the Stormwater Plan will include documentation of all program components that are being undertaken including, but not limited to, inspections, maintenance activities, educational programs, implementation of BMPs, enforcement actions, and other stormwater activities. If monitoring and sampling are being performed, documentation of results shall be included. Documentation will be kept on-file by the permittee for a period of five years and made available to the Director or his authorized representative immediately upon request.
2. Permittee will review and update the Stormwater Plan as necessary, but at least on an annual basis. The permittee will submit a report of this evaluation and monitoring information to the Division on an annual basis. This information will be submitted within 30 days of the anniversary date of the effective date of the permit and cover the previous year's activities. The permittee's reporting will include appropriate information to accurately describe the progress, status, and results of the permittee's Stormwater Plan and will include, but is not limited to, the following components:
 - (a) The permittee will give a detailed description of the status of implementation of the Stormwater Plan. This will include information on development and implementation of all components of the Stormwater Plan for the past year and schedules and plans for the year following each report.
 - (b) The permittee will adequately describe and justify any proposed changes to the Stormwater Plan. This will include descriptions and supporting information for the proposed changes and how these changes will impact the Stormwater Plan (results, effectiveness, implementation schedule, etc.).
 - (c) The permittee will document any necessary changes to programs or practices for assessment of management measures implemented through the Stormwater Plan. In addition, any changes in the cost of, or funding for, the Stormwater Plan will be documented.
 - (d) The permittee will include a summary of data accumulated pursuant to the Stormwater Plan throughout the year along with an assessment of the significance of the data in light of the Stormwater Plan.
 - (e) The permittee will provide a summary of activities undertaken as part of the Stormwater Plan throughout the year. This summary will include, but is not limited to, information on the establishment of appropriate legal authorities, project assessments, inspections, enforcement actions, continued inventory and review of the storm sewer system, education, training and results of the illicit discharge detection and elimination program.
3. The Director may notify the permittee when the Stormwater Plan does not meet one or more of the requirements of the permit. Within the time frame specified in the notice, the permittee will submit a written plan and time schedule to the Director for modifying the site and/or the Stormwater Plan to meet the minimum requirements. The Director may approve the corrective action plan, approve a plan with modifications, or reject the proposed plan. The permittee will provide certification in writing (in accordance with Part IV, Paragraph 2) to the Director that the changes have been made. Nothing in this paragraph shall be construed to limit the Director's ability to conduct enforcement actions for violations of this permit.

4. The Division may request additional reporting information as necessary to assess the progress and results of the Stormwater Plan.

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PART IV REPORTING AND RECORD KEEPING REQUIREMENTS**1. Records**

The permittee shall retain records of all information required by this permit for a period of at least 5 years from the date of acquisition. This period may be extended by request of the Director at any time prior to the end of the five-year period.

2. Report Submittals

- (a) Duplicate signed copies of all reports required herein, shall be submitted to the following address:

Department of Environment and Natural Resources
Division of Water Quality
Stormwater Permitting Unit
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

- (b) All applications, reports, or information submitted to DWQ shall be signed by FSP's chief executive officer or a duly authorized representative of FSP. A person is a duly authorized representative only if:
- (i) The authorization is set forth in writing by the chief executive officer;
 - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of a regulated facility or activity or an individual or position having overall responsibility for environmental/stormwater matters; and
 - (iii) The written authorization is submitted to the Director.
- (c) Any person signing a document under paragraphs (a) or (b) of this section shall make the following certification:

"I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

3. Recording Results

For each activity performed or information collected pursuant to the requirements of this permit, the permittee shall record the following information:

- (a) The dates, exact place, and time of the activity or information collected;
- (b) The individual(s) who performed activity;
- (c) The techniques or methods used; and
- (d) The results of such activity or information collected.

4. Twenty-four Hour Reporting

The permittee shall report to the DWQ central office or the regional office any noncompliance that may constitute an imminent threat to health or the environment. Any information shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances.

The written submission shall contain a description of the noncompliance, and its causes; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time compliance is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

5. Annual Reporting

The permittee will submit reporting and monitoring information on an annual basis per Part III of this permit on forms provided by the DWQ.

6. Additional Reporting

The Director may request reporting information on a more frequent basis as deemed necessary either for specific portions of the permittee's Stormwater Plan or for the entire Program.

7. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in applying for this permit or in any report to the Director, it shall promptly submit such facts or information.

PART V STANDARD CONDITIONS**SECTION A: COMPLIANCE AND LIABILITY****1. Duty to Comply**

The permittee must comply with all conditions of this permit. Failure to abide by the conditions and limitations contained in this permit may subject the Permittee to enforcement action by the Division of Water Quality, in accordance with North Carolina General Statute 143-215.6(a) to 143-215.6(c). Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of permit coverage upon renewal application.

- (a) The permittee shall comply with standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) The Clean Water Act provides that any person who violates a permit condition is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$37,500 per day for each violation). Any person who negligently violates any permit condition is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. Any person who knowingly violates permit conditions is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. Also, any person who violates a permit condition may be assessed an administrative penalty not to exceed \$16,000 per violation with the maximum amount not to exceed \$177,500. [Ref: Section 309 of the Federal Act 33 USC 1319 and 40 CFR 122.41(a).]
- (c) Under state law, a daily civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation may be assessed against any person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit. [Ref: North Carolina General Statutes 143-215.6A]
- (d) Any person may be assessed an administrative penalty by the Administrator for violating sections 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$27,500). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$137,500).

2. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

3. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from any responsibilities, liabilities, or penalties for noncompliance pursuant to NCGS 143-215.3, 143-215.6A, 143-215.6B, 143-215.6C or Section 309 of the Federal Act, 33 USC 1319. Furthermore, the permittee is responsible for consequential damages, such as fish kills, even though the responsibility for effective compliance may be temporarily suspended.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under NCGS 143-215.75 et seq. or Section 311 of the Federal Act, 33 USC 1321.

5. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

6. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

7. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the coverage issued pursuant to this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required by this permit.

8. Penalties for Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

9. Penalties for Falsification of Reports

The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both.

10. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The notification of planned changes or anticipated noncompliance does not stay any permit condition.

11. Duty to Reapply

The permittee is not authorized to discharge after the expiration date. In order to receive automatic authorization to discharge beyond the expiration date, the permittee shall submit a permit renewal application and fees as are required no later than 180 days prior to the expiration date of this permit. Any permittee that has not requested renewal at least 180 days prior to expiration, or any discharge that does not have a permit after the expiration and has not requested renewal at least 180 days prior to expiration, will be subject to enforcement procedures as provided in NCGS 143-215.6 and 33 USC 1251 et seq. The renewal application shall include a review of the Stormwater Program development and implementation over the life of this permit, the status of programs and a description of further program development to be implemented over the future permitting time period.

SECTION B: CONSTRUCTION, OPERATION AND MAINTENANCE of POLLUTION CONTROLS

1. Construction

- a. During construction, erosion shall be kept to a minimum and any eroded areas of the system will be repaired immediately.
- b. Upon completion of construction of any phase of the development that has been approved by the Division, the permittee shall submit to the Division a certification from an appropriate designer for the installed phase of the stormwater management system certifying that such phase of the system has been installed in accordance with this permit and the Division's approval of such phase, including the approved plans and specifications, and other supporting documentation. Mail the Certification to the Washington Regional Office, 943 Washington Square Mall, Washington, North Carolina, 27889, attention Division of Water Quality.
- c. A copy of the approved plans and specifications shall be maintained on file by the Permittee for a minimum of five years from the date of the completion of construction.

2. Proper Operation and Maintenance

- a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are owned and/or operated by the permittee to achieve compliance with the conditions of this permit.
- b. In the event that the facilities fail to perform satisfactorily, including the creation of nuisance conditions, the Permittee shall take immediate corrective action, including those as may be required by the Division, such as the construction of additional or replacement stormwater management systems.

3. Need to Halt or Reduce not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the condition of this permit.

SECTION C: MONITORING AND RECORDS**1. Representative Sampling**

When required pursuant to this permit, stormwater samples collected and measurements taken shall be characteristic of the volume and nature of the permitted discharge. These samples shall be taken on a day and time that is characteristic of the discharge. Where appropriate, all stormwater samples shall be taken before the discharge joins or is diluted by any other waste stream, body of water, or substance. When specified herein, monitoring points established in this permit shall not be changed without notification to and approval of the Director.

2. Flow Measurements

Where required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges.

3. Test Procedures

Test procedures for the analysis of pollutants shall conform to the EMC regulations published pursuant to NCGS 143-215.63 et. seq, the Water and Air Quality Reporting Acts, and to regulations published pursuant to Section 304(g), 33 USC 1314, of the Federal Water Pollution Control Act, as Amended, and Regulation 40 CFR 136.

To meet the intent of the monitoring required by this permit, all test procedures must produce minimum detection and reporting levels, and all data generated must be reported down to the minimum detection or lower reporting level of the procedure.

4. Inspection and Entry

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Director), upon the presentation of credentials and other documents as may be required by law, to;

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

5. Availability of Reports

Except for data determined to be confidential under NCGS 143-215.3(a)(2) or Section 308 of the Federal Act, 33 USC 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Water Quality. As required by the Act, analytical data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in NCGS 143-215.6B or in Section 309 of the Federal Act.

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PART VI LIMITATIONS REOPENER

The issuance of this permit does not prohibit the Director from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by the laws, rules, and regulations contained in Title 40, Code of Federal Regulations, Parts 122 and 123; Title 15A of the North Carolina Administrative Code, Subchapter 2H .0100; and North Carolina General Statute 143-215.1 et. al. The filing of a request for a permit modification, revocation and reissuance or termination does not stay any permit condition.

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PART VII ADMINISTERING AND COMPLIANCE MONITORING FEE REQUIREMENTS

The permittee must pay an administering and compliance monitoring fee within 30 (thirty) days after being billed by the Division. Failure to pay the fee in a timely manner in accordance with 15A NCAC 2H .0105(b)(4) may cause this Division to initiate action to revoke the permit.

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PART VIII DEFINITIONS

1. Best Management Practice (BMP)

Measures or practices used to reduce the amount of pollution entering surface waters. BMPs can be structural or non-structural and may take the form of a process, activity, physical structure or planning (see non-structural BMP).

2. Built-upon Area

That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

3. Clean Water Act

The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et. seq.

4. Common Plan of Development

A construction or land disturbing activity is part of a larger common plan of development if it is completed in one or more of the following ways:

- In separate stages
- In separate phases
- In combination with other construction activities

It is identified by the documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, plats, blueprints, marketing plans, contracts, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

It can include one operator or many operators.

5. Department

Department means the North Carolina Department of Environment and Natural Resources

6. Division or DWQ

The Division of Water Quality, Department of Environment and Natural Resources.

7. Director

The Director of the Division of Water Quality, the permit issuing authority.

8. EMC

The North Carolina Environmental Management Commission.

9. FSP

The Fund for Sandy Point North Carolina, LLC

10. Hazardous Substance

Any substance designated in 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

11. Illicit Discharge

Any discharge to a separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the NPDES separate storm sewer system permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.

12. Industrial Activity

For the purposes of this permit, industrial activities shall mean all industrial activities as defined in 40 CFR 122.26.

13. Non-stormwater Discharge Categories

The following are categories of non-stormwater discharges that the permittee must address if it identifies them as significant contributors of pollutants to the storm sewer system: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration, [as defined in 40 CFR 35.2005(20)], uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the definition of illicit discharge and only need to be addressed where they are identified as significant sources of pollutants to waters of the United States).

14. Non-structural BMP

Non-structural BMPs are preventive actions that involve management and source controls such as: (1) Restrictive covenants, policies and other legal mechanisms that protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and/or minimize disturbance of soils and vegetation; (2) education programs for developers and the public about minimizing water quality impacts; (3) other measures such as minimizing the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance and spill prevention.

15. Outfall

The point of wastewater or stormwater discharge from a discrete conveyance system. See also point source discharge of stormwater.

16. Permittee

The owner or operator issued this permit.

17. Point Source Discharge of Stormwater

Any discernible, confined and discrete conveyance including, but not specifically limited to, any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which stormwater is or may be discharged to waters of the state.

18. Public

All references in this permit to “the public” and “the community” refer to residents of the Sandy Point Development, as well as persons working at or visiting the Sandy Point Development.

19. Redevelopment

Means any rebuilding activity unless that rebuilding activity;

- 1) Results in no net increase in built-upon area, and
- 2) Provides equal or greater stormwater control than the previous development.

20. Separate Storm Sewer System

A conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- i. That discharges to waters of the United States or waters of the State;
- ii. Designed or used for collecting or conveying stormwater;
- iii. Which is not a combined sewer; and
- iv. Which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2

21. Stormwater Runoff

The flow of water which results from precipitation and which occurs immediately following rainfall or as a result of snowmelt.

22. Total Maximum Daily Load (TMDL)

A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is a detailed water quality assessment that provides the scientific foundation for an implementation plan. The implementation plan outlines the steps necessary to reduce pollutant loads in a certain body of water to restore and maintain water quality standards in all seasons. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs.

23. Toxic Pollutant

Any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act.

**ATTACHMENT A
PHASE ONE PROJECT DATA**

Project Name: Sandy Point Phase One
 Permit Number: SW7060113
 Location: Chowan County
 Applicant: The Fund for Sandy Point North Carolina, LLC
 Mailing Address: P.O. Box 789, Edenton, NC 27932
 Application Date: 1/17/2006 (original)
 Receiving Stream: UT to Albemarle Sound
 Classification of Water Body: SB
 Total Site Area: 27.16 ac
 Total Impervious: 12.79 ac

Infiltration Systems

Drainage area #:	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Size:	12.97 ac	1.88 ac	3.24 ac	9.07 ac
Impervious area:	5.96 ac	0.95 ac	1.72 ac	4.16 ac
Required Storage:	29,650 cf	4,454 cf	7,826 cf	20,720 cf
Provided Storage:	37,688 cf	4,465 cf	8,539 cf	28,494 cf

Bioretention Areas

<u>Basin #</u>	<u>Storage Volume</u>
A1	686 cf
A2	686 cf
A3	686 cf
A7	1,123 cf
A8	1,023 cf
A29	223 cf
A30	10,624 cf
B2	639 cf
B3	1,391 cf
C5	3,432 cf
D15	189 cf
D24	884 cf

Overflow from areas C & D flows to Wet Pond

Wet Pond Depth: 6.5 ft
 Provided Storage Volume: 359,875 cf
 Provided Surface Area: 79,160 sf
 Controlling Orifice: 14 – 2.0 inch holes @ elevation 2.5 f