

Water Quality Certification N^o. 3682

GENERAL CERTIFICATION FOR THE US ARMY CORPS OF ENGINEERS **DREDGING ACTIVITIES INVOLVING BANK DISPOSAL OF DREDGED** **MATERIAL IN THE CAPE FEAR RIVER**

Water Quality Certification Number 3682 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 Regulations in 15 NCAC 2H, Section .0500 and 15 NCAC 2B .0200 for the dredging of sediment in the Cape Fear River and disposal in the bank manner from Mileboard 30 near Riegelwood to Mileboard 115 near Fayetteville, North Carolina.

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 the conditions hereinafter set forth.

All proposed fill or modification of wetlands and/or waters, including streams, under this General Certification requires application to, and written approval from the Division of Water Quality (the "Division").

In accordance with North Carolina General Statute Section 143-215.3D(e), any requirement for written approval for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.

Conditions of Certification:

1. Dredging shall occur from September through January only. All other months have been prohibited by the US Army Corps of Engineers.
2. No Impacts Beyond those Authorized in the Written Approval

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts authorized in the written approval including incidental impacts. 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.

3. Standard Erosion and Sediment Control Practices

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

- a. 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.
- b. 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*.
- c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.

Water Quality Certification N^o. 3682

- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.
4. Turbidity shall not exceed the standards specified by the water quality classification outside of a suitable mixing zone as specified by the Division. Methods may include silt curtains, reducing dredging intensity, or other practicable methods to ensure minimization of turbidity during project construction.
5. Construction Moratoriums and Coordination

All moratoriums established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to protect shortnose sturgeon, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern must be obeyed.

Work within identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

The timing of the dredging and discharge shall be coordinated with State and Federal agencies and the applicant in order to lessen impact on aquatic organisms and their reproduction.

6. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters without prior approval from the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then the design and placement of 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. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

7. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at http://h2o.enr.state.nc.us/su/Forms_Documents.htm.

8. When dredge activity is near the vicinity of locks and dams or in areas where the discharge line from the dredge cannot reach shore, dredged material or sediments shall be deposited by the thin layer disposal method developed by the U.S. Army Corps of Engineers.
9. Dredged material or sediments shall not be discharged directly in shoreline areas with depth of less than three (3) feet (to minimize *Centrarchid* spawning habitat loss) or in deep holes greater than thirty (30) feet deep (to minimize catfish habitat loss).

Water Quality Certification N^o. 3682

10. A 24-hour advance notice of dredging operations upstream of Lock and Dam No. 1 shall be submitted to the City of Wilmington, Public Utilities Department to prevent the receipt of poor quality raw water.
11. If an environmental document is required under NEPA or SEPA, then this General Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.
12. Additional site-specific conditions may be added to the cover letter in order to ensure compliance with all applicable water quality and effluent standards.
13. When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.
14. This General Certification shall expire three (3) years from the date of issuance of the written approval or on the same day as the expiration date of these corresponding Nationwide and Regional General Permits. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification. If the construction process for approved activities will overlap the expiration and renewal date of the corresponding 404 Permit and the Corps allows for continued use of the 404 Permit, then the General Certification shall also remain in effect without requiring re-application and re-approval to use this Certification for the specific impacts already approved.
15. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

Non-compliance with or violation of the conditions herein set forth by a specific fill project shall result in revocation of this General 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, stream 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.

Water Quality Certification N°. 3682

Effective date: November 1, 2007

DIVISION OF WATER QUALITY

By

A handwritten signature in black ink, appearing to read 'Coleen H. Sullins', with a long horizontal line extending to the right.

Coleen H. Sullins

Director

History Note: Water Quality Certification Number 3682 replaces Water Quality Certification Number 3648 issued on March 19, 2007, Water Quality Certification Number 3358 issued on March 18, 2002, and Water Quality Certification Number 3119 issued on February 11, 1997. This General Certification is rescinded when deemed appropriate by the Director of the Division of Water Quality.