



PAT MCCRORY

Governor

DONALD R. VAN DER VAART

Secretary

S. JAY ZIMMERMAN

Director

August 11, 2016

DWR # 15-0220 v2
Brunswick County

Town of Ocean Isle Beach
Attn: Mayor Debbie Smith
3 West Third Street
Ocean Isle Beach, NC 28469

Subject: Approval of Individual 401 Water Quality Certification with Additional Conditions
Ocean Isle Beach Terminal Groin & Shoreline Management Project
USACE Action ID. No. SAW-2011-01241

Dear Mayor Smith:

Attached hereto is a copy of Certification No. 4069 issued to Mayor Debbie Smith and Ocean Isle Beach, dated August 11, 2016. Please note that you should get any other federal, state or local permits before proceeding with the subject project, including those required by (but not limited to) Sediment and Erosion Control, Non-Discharge, and Water Supply Watershed regulations.

This approval and its conditions are final and binding unless contested. This Certification can be contested as provided in Articles 3 and 4 of General Statute 150B by filing a written petition for an administrative hearing to the Office of Administrative Hearings (hereby known as OAH) **within sixty (60) calendar days**.

A petition form may be obtained from the OAH at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000 for information. A petition is considered filed when the original and one (1) copy along with any applicable OAH filing fee is received in the OAH during normal office hours (Monday through Friday between 8:00am and 5:00pm, excluding official state holidays).

The petition may be faxed to the OAH at (919) 431-3100, provided the original and one copy of the petition along with any applicable OAH filing fee is received by the OAH within five (5) business days following the faxed transmission.

Mailing address for the OAH:

If sending via US Postal Service:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

If sending via delivery service (UPS, FedEx, etc):

Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285

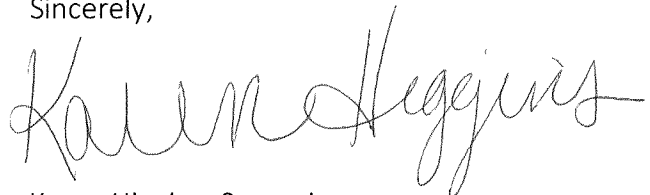
One (1) copy of the petition must also be served to Department of Environmental Quality:

Sam M. Hayes, General Counsel
Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

Unless such a petition is filed, this Certification shall be final and binding.

This certification completes the review of the Division under section 401 of the Clean Water Act and 15A NCAC 02H .0500. Please contact Chad Coburn at 910-796-7379 or chad.coburn@ncdenr.gov or Jennifer Burdette at 919-807-6364 or jennifer.burdette@ncdenr.gov if you have any questions or concerns.

Sincerely,



Karen Higgins, Supervisor
401 & Buffer Permitting Branch

cc: Brad Rosov, Coastal Planning & Engineering of NC, Inc., 4038 Masonboro Loop Road,
Wilmington, NC 28409
Greg Finch, Coastal Planning & Engineering of NC, Inc., 4038 Masonboro Loop Road,
Wilmington, NC 28409
Heather Coats, NC DEQ-DCM, 127 Cardinal Drive Extension, Wilmington, NC 28405
USACE Wilmington Regulatory Field Office
Todd Bowers, EPA, Sam Nunn Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303
DWR WiRO 401 file
DWR 401 & Buffer Permitting Branch file

NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

CERTIFICATION #4069 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to North Carolina’s Regulations in 15 NCAC 02H .0500, to Mayor Debbie Smith and Town of Ocean Isle Beach, who have authorization for the impacts listed below, as described within your application received by the N.C. Division of Water Resources (Division) on July 12, 2016 and subsequent information on April 29, 2016 and by Public Notice issued by the U. S. Army Corps of Engineers and received by the Division on January 23, 2015.

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

This approval requires you to follow the conditions listed in the certification below.

Conditions of Certification:

1. Impacts Approved

The following impacts are hereby approved provided that all of the other specific and general conditions of the Certification are met. No other impacts are approved, including incidental impacts. [15A NCAC 02B .0506(b)]

Type of Impact	Amount Approved (units) Permanent	Amount Approved (units) Temporary
Open Waters (dredging)	82.8 (acres)	0 (acres)
Open Waters (fill)	0.63 (acres) terminal groin 12.3 (acres) sand fillet	0.43 (acres) trestle construction

2. The turbidity standard of 25 NTUs (Nephelometric Turbidity Units) shall not be exceeded as described in 15 A NCAC 02B .0200. Appropriate sediment and erosion control practices must be used to meet this standard.

3. All mechanized equipment operated near surface waters or wetlands will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids or other potential toxic chemicals. In the event of a hydrocarbon or chemical spill, the permittee/contractor shall immediately contact the Division of Water Resources, between the hours of 8 am to 5 pm at the Wilmington Regional Office at 910-796-7215 and after hours and on weekends call (800) 858-0368. Management of such spills shall comply with provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act. [15A NCAC 02H .0506 (b)(3) and (c)(3), 15A NCAC 02B .0200 (3)(f), and GS 143 Article 21A]

4. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle nesting, fish spawning, or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities.

All moratoriums on construction activities 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 lessen impacts on trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented. Exceptions to this condition require written approval by the resource agency responsible for the given moratorium.

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

5. No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification for this project. 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. Approved plans and specifications for this project are incorporated by reference and are enforceable parts of this permit. [15A NCAC 02H .0501 and .0502]

6. Sediment and Erosion Control

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 and if applicable, comply with the specific conditions and requirements of the NPDES Construction Stormwater Permit issued to the site: [15A NCAC 02H .0506(b)(3) and (c)(3)]

- 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.
 - e. For PNA, SA, WS-I, WI-II, HQW, ORW waters. The sediment and erosion control designs must comply with the requirements set forth in 15A NCAC 04B .0124 *Design Standards in Sensitive Watersheds*.
7. Sediment and erosion control measures shall not be placed in wetlands or waters. Exceptions to this condition require application submittal to and written approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands, stream beds, or banks, adjacent to or upstream and downstream 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 Energy, Mineral and Land Resources (DEMLR) or locally delegated program has released the specific area within the project. [15A NCAC 02H .0501 and .0502]
8. Construction Stormwater Permit NCG010000
An NPDES Construction Stormwater Permit is required for construction projects that disturb one (1) or more acres of land. This Permit allows stormwater to be discharged during land disturbing construction activities as stipulated in the conditions of the permit. If your project is covered by this permit, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required. A copy of the general permit (NCG010000), inspection log sheets, and other information may be found at:
<http://portal.ncdenr.org/web/wg/ws/su/npdewsw#tab-w>. [15A NCAC 02H .0506(b)(5) and (c)(5)]

9. Work in the Dry

All work in or adjacent to stream waters shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. [15A NCAC 02H .0506(b)(3) and (c)(3)]

10. If concrete is used during the construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state due to the potential for elevated pH and possible aquatic life/fish kills. [15A NCAC 02B .0200]

11. All temporary fill and culverts shall be removed and the impacted area returned to natural conditions, within 60 days of the determination that the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross sectional dimensions, plan form pattern, and longitudinal bed and bed profile, and the various sites shall be stabilized with natural woody vegetation (except approved maintenance areas) and restored to prevent erosion. [15A NCAC 02H .0506(b)(2) and (c)(2)]

12. All temporary pipes/culverts/riprap pads etc, shall be installed in all streams as outlined in the most recent edition of the North Carolina Sediment and Erosion Control Planning and Design Manual so as not to restrict stream flow or cause dis-equilibrium. [15A NCAC 02H .0506(b)(2) and (c)(2)]

13. Any riprap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All riprap shall be buried and/or "keyed in" such that the original stream elevation and streambank contours are restored and maintained. Placement of riprap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area. [15A NCAC 02H .0506(b)(2)]

14. Any riprap used for stream stabilization shall be of a size and density to prevent movement by wave action, current action, or stream flows and consist of clean rock or masonry material free of debris or toxic pollutants. Riprap shall not be installed in the streambed except in specific areas required for velocity control and to ensure integrity of bank stabilization measures. [15A NCAC 02H .0506(b)(2)]

15. A one-time application of fertilizer to re-establish vegetation is allowed in disturbed areas including riparian buffers, but is restricted to no closer than 10 feet from top of bank of streams. Any fertilizer application must comply with all other Federal, State and Local regulations. [15A NCAC 02B .0231]

16. This Certification does not relieve the applicant of the responsibility to obtain all other required Federal, State, or Local approvals.

17. Continuing Compliance

Mayor Debbie Smith and Town of Ocean Isle Beach shall conduct construction activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with section 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 the 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, the Division may reevaluate and modify this Certification. Before modifying the Certification, the Division shall notify Mayor Debbie Smith and Town of Ocean Isle Beach and the U.S. Army Corps of Engineers, provide public notice in accordance with 15A NCAC 02H .0503 and provide opportunity for public hearing in accordance with 15A NCAC 02H .0504. Any new or revised conditions shall be provided to Mayor Debbie Smith and Town of Ocean Isle Beach in writing, shall be provided to the U.S. Army Corps of Engineers for reference in any Permit issued pursuant to Section 404 of the Clean Water Act, and shall also become conditions of the 404 Permit for the project.

18. This approval is for the purpose and design described in your application and as described in the Public Notice. The plans and specifications for this project are incorporated by reference and are an enforceable part of the Certification. If you change your project, you must notify the Division and you may be required to submit a new application package with the appropriate fee. If the property is sold, the new owner must be given a copy of this Certification and is responsible for complying with all conditions. Any new owner must notify the Division and request the Certification be issued in their name. [15A NCAC 02H .0501 and .0502]

19. The applicant and/or authorized agent shall provide a completed Certificate of Completion Form to the DWR 401 & Buffer Permitting Branch within ten days of project completion (available at: <http://portal.ncdenr.org/web/wq/swp/ws/401/certsandpermits/apply/forms>). [15A NCAC 02H .0502(f)]

20. This certification grants permission to the director, an authorized representative of the Director, or DEQ staff, upon the presentation of proper credentials, to enter the property during normal business hours. [15A NCAC 02H .0502(e)]

This approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 or CAMA Permit. The conditions in effect on the date of issuance shall remain in effect for the life of the project, regardless of the expiration date of this Certification.

Non-compliance with or violation of the conditions herein set forth may result in revocation of this Certification and may also result in criminal and/or civil penalties.

This the 11th day of August 2016

A handwritten signature in black ink that reads "Karen Higgins". The signature is written in a cursive style with a long horizontal stroke at the end.

Karen Higgins, Supervisor
401 & Buffer Permitting Branch

KAH/jab

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