



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

June 13, 2003

Project No.: 8.1501502, 8.1520103, 8.1520104
T.I.P. No.: R-942CA, R-942B & R.942A
County: Chatham/Orange
Description: US 15-501 from SR 1599 in Chatham County to South of SR 1994 (Culbreth Road)
South of Carrboro

Subject: Suspension of Work

Mr. Les Basnight
Jones Brothers, Inc.
3874 S. Alston Avenue
Suite 103
Durham, N.C. 27715

Dear Mr. Basnight,

On June 11th, 2003 Jones Brothers Inc. was told to submit a revised reclamation plan for the borrow pit at Cub Creek. To date this has not been submitted for review; therefore all removal of graves at the Cub Creek Borrow Pit shall stop immediately. No graves will be removed without an approved reclamation plan.

Once the revised reclamation plan is submitted it will be reviewed and a decision will be made as to whether this revision will be allowed. Please provide all pertinent information for this review (County Commissioners Approval Letter, Correspondence to Next of Kin, Point of Relocation, Who will oversee this work, Description of Order of Operations, etc.).

Please advise if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script that reads "Marty C. Tillman".

Marty C. Tillman
RESIDENT ENGINEER

cc: Mr. W.F. Rosser, P.E.
Mr. S.D. DeWitt, P.E.
Mr. D.W. Jernigan, P.E.
Mr. F.A. Sykes
Mr. Wayne Bryant

Performance Deposit, to the State Property Manager. This form should be completed in quadruplicate, with the original and four copies being submitted to the State Property Manager.

14.44 REMOVAL OF GRAVES OR CEMETERIES

On any properties where a cemetery or graves must be removed from the right of way. The preferred procedure to follow is by consent of the next of kin. The Agent must consider that the removal of graves may involve a delicate situation in which sentimental considerations are often present. In discussing such matters with the next of kin, he should be respectful and considerate. Since all work pertaining to the removal of graves shall be under the supervision and direction of the County Board of Commissioners or other appropriate officials, including the local Health Director, the Agent should ascertain the proper party to contact in each county in which graves will be disinterred and/or reinterred. A letter from the Division Right of Way Agent to the Board of County Commissioners for both the disinterment and/or reinterment sites shall be written indicating that the Department is certifying the necessity for moving the graves and/or cemetery from the right of way of the proposed project. A copy of this prescribed letter will be sent to the appropriate Health Department.

In many instances, the remains may be removed to a burial plot in the same cemetery and this practice should be encouraged wherever possible. If requested by the next of kin,

Notification to Remove Grave and Marker (see Exhibit 14-20), should be executed by the next of kin of the deceased. A copy of this form shall be given to the next of kin after being completed, dated and signed by the Agent. This fulfills the thirty (30) day written notice requirement of the Statute. In the event the remains are being removed and relocated in a cemetery that will not permit above ground markers or headstones, a provision should be placed in the form regarding the disposition of the markers that are located in the cemetery. In such cases, a suitable replacement marker shall be provided by the Department. The existing markers are usually buried with the remains at the new grave site. The Agent must arrange for and secure the substitute burial plot, with the Department paying all expenses of disinterment, removal and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the disinterment. The expenses of the next of kin may not exceed the sum of two hundred dollars (\$200.00). Deeds to substitute burial plots should be drawn in favor of the next of kin. If no next of kin can be located, the plot should be deeded to the county, if agreeable, and to the Department as the last resort.

Regardless of whether the next of kin can be located or the next of kin will not grant permission for the removal of the remains, it will be necessary for the Department to resort to the procedure in GS 65-13, which provides in part as follows:

- (a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, may effect the disinterment, removal and reinterment of graves as follows:

By the State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the Board of County Commissioners in the County from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law...

- (b) The party effecting the disinterment, removal and reinterment of a grave containing a decedent's remains under the provisions of this chapter shall, before disinterment, give 30 days written notice of such intention to the next of kin of the decedent, if known, or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal and reinterment to be published at least once per week for four (4) successive weeks in a newspaper of general circulation in the county where such grave is situated and the first publication shall be no less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery or burial ground.
- (c) The party removing or causing the removal of, all such graves shall, within 30 days after completion of the removal and reinterment, file with the Register of Deeds of the county in which reinterment is made, a written certificate of the removal facts. A fee of one dollar (\$1.00) for each page or portion of page of such certificate or removal facts shall be paid to the Register of Deeds of each county in which such certificate is filed for registration.

The Agent shall insure that the reinterment site is adequate to accommodate only the remains of each decedent and that the site is reasonably accessible to all relatives of the decedent. Provisions are allowed, where necessary and requested, for the reinterment of several remains in a common grave, if written consent is obtained from the next of kin. Only contractors who are licensed in North Carolina as a "Funeral Director" or "Funeral Service Licensee", under the provisions of Article 13A of Chapter 90 of the North Carolina General Statutes, will be eligible to bid on the disinterment, removal and reinterment of

The Agent should note that before the method outlined in the statutes may be used, the property from which the graves are to be removed must be owned by or be in the custody or control of the Department. If an agreement has not been reached with the property owner on whose property the graves are located, an action in condemnation must be filed prior to commencing the procedure for the removal of graves. So there will be no questions as to ownership of the cemetery area, the Agent should secure a Preliminary Certificate of Title for the property on which the cemetery is situated. This should be done even though the appraised damages to the property are less than \$10,00.00. The State Property Manager should be notified by the Agent so that he can arrange to handle the necessary advertising procedure through the Attorney General's Office. The Agent should furnish the State Property Manager the following information:

1. The project number and county in which the cemetery lies, claimant and parcel number.
2. The approximate survey station of the graves, to include physical location.
3. The name of the cemetery, if it has one; if not, the name by which it is commonly know.
4. The name of the cemetery to which it is proposed to move the graves.
5. The approximate number of graves to be moved.
6. The names and addresses of the relatives of the deceased persons, if known; if not, this fact should be stated. If only a portion of the relatives are known, this fact should be stated.

7. The names of the deceased persons to be moved, if known; if unknown, it should be stated.
8. The name, address, and publication schedule of a newspaper circulated in the county in which the cemetery is located.
9. The names and address of the person or persons who own the land on which the cemetery is located.
10. A statement as to whether or not the right of way has been acquired or condemned in the location where the graves are presently located.
11. A statement of any facts pertaining to the cemetery that will be helpful in arranging for the removal of the graves.

After the procedures for advertising as specified by the statute have been complied with, the State Property Manager will advise the Agent so that arrangements can be made to have the graves moved.

These arrangements will consist of advertising for and awarding a contract for the removal of the graves. The procedures to be followed in advertising and awarding the contract will be similar to those outlined previously for the Public Sale of Improvements, except that the special Proposal and Contract for Grave Removal will be used (see Exhibit 14-21). An envelope addressed to the Division Right of Way Agent with the word "BID" stamped on the left side should appear on the envelope. In preparing the proposal and contract, if it is necessary to furnish and place a new marker, it should be described fully in the space provided. A statement should also be made that the Contractor will provide for the installation of the new marker. The Agent should outline the disposition of the grave markers at the location of the original graves, that is whether they are to be reset at the new site or be otherwise disposed of. Due care must be taken of all existing tombstones prior to replacement. The Civil Rights compliance reference must be included in all proposals and contracts.

After the bid opening an original and two (2) copies of the recommended Proposal and Contract for the grave removal along with the original of all bids received should be forwarded by the Division Right of Way Agent to the State Property Manager for acceptance or rejection. The Division Right of Way Office should also notify the Raleigh Office of the type of performance bond that the recommended bidder will provide.

Within 30 days after completion of the contract, the Division Right of Way Agent shall be required to file with the Register of Deeds of the counties from which the disinterment and/or reinterment occurred a written certification of the removal facts (see Exhibit 14-22). Copies of the map for both disinterment and reinterment sites are to be attached to the certification. The maps shall contain the following minimum information: Project number, county, name of cemetery, disinterment or reinterment site, distance from nearest public road or intersection or roads in vicinity of cemetery, name of contractor moving graves, date reinterment completed and a north arrow symbol. The scale of the map should be one (1) inch to 20 feet unless reduced by approval of the Division Right of Way Agent. The maps should have sufficient information for a layman to identify the location of the disinterment and reinterment sites.

Should more than one cemetery be involved in the reinterment of the graves, separate certificates and maps should be filed for each cemetery. All information concerning the birth and death dates of all decedents should be included on the certificates.