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North Carolina Department of Environment and Natural Resources
Division of Land Resources

James D. Simons, PG, PE
Director and State Geologist

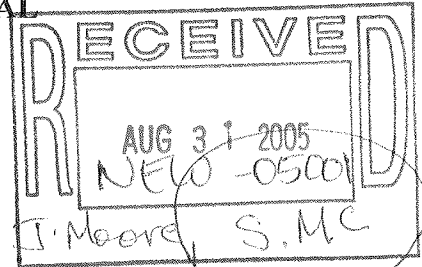
Michael F. Easley, Governor
William G. Ross Jr., Secretary

CERTIFICATE OF APPROVAL

July 29, 2005

CERTIFIED MAIL
RETURN RECEIPT

Mr. Mitch Barron
Briar Chapel Utilities, LLC
PO Box 1486
Pittsboro, North Carolina 27312



RE: Approval to Construct
Briar Chapel Reclamation Facility - Central Pond Dam
Chatham County

Dear Mr. Barron:

This is in response to your submission dated June 3, 2005 and received on June 6, 2005 of plans, specifications and design data for the construction of the subject dam in compliance with the Dam Safety Law of 1967. The proposed dam will be located in northern Chatham County in the Cape Fear river basin. The above listed documents were prepared under the supervision of Mr. F. Sean McGrath, PE. Also, Check No. 014532 in the amount of \$200.00 serving as the minimum application processing fee was received on June 6, 2005.

This letter constitutes approval of the proposal to construct the subject dam according to the plans and specifications received by this Division on June 6, 2005 with the following stipulations:

1. Project construction shall be supervised by Mr. Wes Lowder, PE.
2. During construction, the Division of Land Resources may require such progress reports as are deemed necessary.
3. Upon completion of the project, Mr. Wes Lowder, PE shall inspect the completed work and upon finding that the work has been done as specified, and the dam is safe, shall file with the Division of Land Resources two sets of record drawings and a certificate stating that the work has been completed in accordance with approved plans, specifications and other requirements.
4. To insure its usefulness in case of a dam safety emergency, the submitted Emergency Action Plan (EAP) should be updated at least yearly and be readily available to those responsible for operation of the facility. Additionally, please include contact information for Chatham County's Emergency 911 Communications Center (either dial 911 if in Chatham County or (919) 542-2811) as local authorities would likely be the first responders in time of a dam safety emergency.

Mr. Mitch Barron

July 29, 2005

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You may want to combine the contact information for the State Emergency Operations Center (EOC) and the Division of Emergency Management (DEM) since DEM runs the State EOC. Once these changes are made, please forward a signed copy of the EAP to this Division for our records and use. You may also want to send a copy of the EAP to Chatham County's Emergency Operations department.

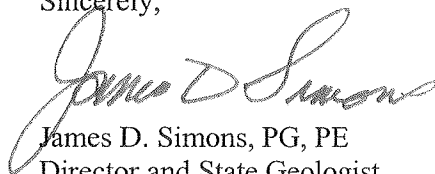
5. No water shall be impounded behind the dam until an approval to impound is issued by the Division of Land Resources for operation of this dam.
6. You must notify Mr. John Holley, PE, Regional Engineer, Land Quality Section, 1628 Mail Service Center, Raleigh, North Carolina 27699, telephone number (919) 571-4700 ten days before the start of construction.

The Army Corps of Engineers and the Water Quality Section of this Department should be contacted to determine if additional permits are required. Also, the erosion and sediment control program having jurisdiction should be contacted to determine permit requirements. In any case, sediment shall be prevented from entering the waters of the state or flowing onto neighboring property.

I am enclosing a copy of an Owner's Certification Form and an explanation of the final processing fee calculation. An additional fee will be required when the engineer's certification is submitted if the construction cost exceeds \$10,001.00. In any event, the cost certification must be completed and returned with the engineer's certification before an approval to impound can be processed.

The Dam Safety Law of 1967 requires that project construction commence within one year from the date of this approval, or the approval is void. For assistance, you may contact Mr. John Holley, PE in the Raleigh Regional Office or Mr. Maxwell R. Fowler, PE in the Central Office at (919) 733-4574.

Sincerely,



James D. Simons, PG, PE
Director and State Geologist

JDS/whd

Enclosures

cc: Mr. Wes Lowder, PE
Mr. Ken Schuster, PE
Mr. John Holley, Jr., PE

OWNER'S CERTIFICATION

AFFIDAVIT OF ACTUAL COST OF CONSTRUCTION, ENLARGEMENT OR REMOVAL
OF DAM
(COST OF COMPLETED PROJECT)

1. Name of dam _____
2. County in which dam is located _____
3. Owner of dam _____
4. Owner's address _____
5. Owner's telephone number _____
6. Authorized representative of owner _____
(if applicable)
7. Authorized representative's address _____
(if applicable)
8. Authorized representative's telephone number _____
(if applicable)
9. Engineer's name _____
10. Engineer's address _____
11. Engineer's telephone number _____
12. Actual cost of _____
(Construction, Enlargement or Removal)
of dam: \$ _____ *
13. Additional application processing fee enclosed \$ _____

The above information is true and correct to the best of my knowledge and belief and was provided by me under oath.

Type and print name

Title of authority

Signature _____

Date _____

I, _____, a Notary Public of the County of _____ in the State of North Carolina, hereby certify that _____ appeared personally before me this day and being duly sworn acknowledge that the above form was executed by him/her.

Witness my hand and notarial seal, this _____ day of _____, 20_____.

Seal

Notary

My commission expires _____

*Attach contractual documentation for project which includes lump sum bid price or unit bid quantities with prices; all change order items costs, etc. An approval will not be issued if documentation for the actual cost of construction/enlargement/removal and the additional application processing fee are not provided.

approved plans and specifications. It should be noted that only the Director of the Division of Land Resources has the authority to issue an approval to impound. Civil penalties up to \$500.00 per day can be assessed or injunctive relief can be sought for dams impounding prior to issuance of an approval to impound.

Examples for calculation of the Additional Application Processing Fee follow.

ADDITIONAL APPLICATION PROCESSING FEE CALCULATION, EXAMPLE NO. 1

Cost of Completed Project = \$77,000.00

- Additional Application Processing Fee Submitted at Completion of Project is:

$$2\% \times (\$77,000.00 - \$10,001.00) = \mathbf{\$1,339.98}$$

ADDITIONAL APPLICATION PROCESSING FEE CALCULATION, EXAMPLE NO. 2

Cost of Completed Project = \$342,000.00

- Additional Application Processing Fee Submitted at Completion of Project is:

$$\begin{aligned} & 2\% \times (\$100,000.00 - \$10,001.00) \\ & + 1.5\% \times (\$342,000.00 - \$100,001.00) \\ & = \$1,799.98 + \$3,629.99 = \mathbf{\$5,429.97} \end{aligned}$$

ADDITIONAL APPLICATION FEE CALCULATION, EXAMPLE NO. 3

Cost of Completed Project = \$850,000.00

- Additional Application Processing Fee Submitted at Completion of Project is:

$$\begin{aligned} & 2\% \times (\$100,000.00 - \$10,001.00) \\ & + 1.5\% \times (\$500,000.00 - \$100,001.00) \\ & + 1.0\% \times (\$850,000.00 - \$500,001.00) \\ & = \$1,799.98 + \$5,999.99 + \$3,499.99 = \mathbf{\$11,299.96} \end{aligned}$$

Should you have any questions concerning the calculation of the Additional Application Processing Fee, please contact the Dam Safety Program staff at telephone number (919) 733-4574.

Rev. 2 October 2001

APPLICATION PROCESSING FEES FOR CONSTRUCTION, ENLARGEMENT OR REMOVAL OF DAM

The 1990 General Assembly authorized in General Statute (G. S.) 143-215.28A the required payment of application processing fees for the construction of new dams, and for the enlargement or removal of existing dams. The total fee amount is based on the cost of the completed project with a Minimum Application Processing Fee of \$200.00

The cost of the completed project includes all labor and materials costs associated with the construction, enlargement or removal of a dam and appurtenances. The cost of the completed project, however, does not include costs associated with engineering design or quality control testing, land or right-of-way acquisition, electrical generating machinery, or constructing a roadway across the dam.

There are two types of fees: (1) the "Minimum Application Processing Fee," and (2) the "Additional Application Processing Fee." These two types of fees are described below.

The Minimum Application Processing Fee is \$200.00. This is an initial review fee and must be submitted with the application for construction, enlargement or removal of a dam along with a preliminary estimate of the cost of the completed project. The State's review of an application will not commence if the Minimum Application Processing Fee is not submitted with the application.

If the cost of the completed project exceeds \$10,001.00, an Additional Application Processing Fee must be submitted at the completion of the project. The Additional Application Processing Fee must be submitted along with the dam owner's certification of the cost of the completed project; the engineer's as-built plans; and the engineer's certification that the dam and all appurtenances have been constructed, enlarged or removed in conformance with the approved plans and specifications.

The Additional Application Processing Fee is based on the cost of the completed project and is calculated according to the following percentages:

- (a) 2% of the actual costs between \$10,001.00 and \$100,000.00
- (b) 1.5% of the actual costs between \$100,001.00 and \$500,000.00.
- (c) 1% of the actual costs between \$500,001.00 and \$1,000,000.00
- (d) 0.5% of the actual costs over \$1,000,000.00.

The maximum Additional Application Processing Fee is \$50,000.00.

The Additional Application Processing Fee must be for the exact amount as determined from the percentages above and must be paid for by check or money order made payable to **NCDENR. DO NOT SEND CASH.** If the amount of the Additional Application Processing Fee remitted is incorrect, it will be returned as unacceptable. An approval to impound will not be issued until receipt of the required Additional Application Processing Fee and an as-built inspection by the Division of Land Resources, Land Quality Section determines that the dam is in compliance with the