



# Soil & Environmental Consultants, PA

11010 Raven Ridge Road • Raleigh, North Carolina 27614 • Phone: (919) 846-5900 • Fax: (919) 846-9467  
www.SandEC.com

October 17, 2006  
S&EC Project # 8341.W2

US Army Corps of Engineers  
Attn: Mr. Todd Tugwell  
6508 Falls of the Neuse Rd., Ste. 120  
Raleigh, NC 27615

RE: Notification of Statutory Status of Request for NWP #12 and 39  
Creekside  
Chatham County, North Carolina

Dear Mr. Tugwell:

On September 1, 2006, S&EC requested authorization from the US Army Corps of Engineers (USACE) to utilize Nationwide Permits (NWP) 12 and 39 to meet the demand for residential development in eastern Chatham County, provide utilities, and access to two of the individual lots. Proposed impacts total 274 linear feet of perennial stream and no wetland impacts. At this time, 46 days have lapsed since the US Army Corps of Engineer's receipt of the complete preconstruction notification. To paraphrase the Federal Register (Vol. 67, No. 10, section 13.a.1), the permittee may begin the proposed work if the USACE has not sent any written notices (i.e. the permit itself or any notice of an incomplete submittal, etc.) within 45 days of the District or Division Office of the USACE receiving the complete permit application therefore, according to the aforementioned regulation the client may proceed with the proposed activity as depicted in the submitted permit application and in compliance with the NC-Division of Water Quality's 401-Permit.

Sincerely,

Nicole J. Thomson  
Regulatory Specialist

cc: Mr. Thomas Fonville (Community Properties, Inc.)

#### Attachments

1. Copy of NWP General Conditions, Section 13
2. Copy of USACE signed receipt of the completed PCN application

Charlotte Office:  
236 LePhillip Court, Suite C  
Concord, NC 28025  
Phone: (704) 720-9405  
Fax: (704) 720-9406

Greensboro Office:  
3817-E Lawndale Drive  
Greensboro, NC 27455  
Phone: (336) 540-8234  
Fax: (336) 540-8235

management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. *Coastal Zone Management.* In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs.

(b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/>

[endspp.html](http://www.fws.gov/r9endspp.html) and [http://www.nfms.gov/prot\\_res/esahome.html](http://www.nfms.gov/prot_res/esahome.html) respectively.

12. *Historic Properties.* No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. *Notification.*

(a) *Timing;* where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity;

(1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received

written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Notification:* The notification must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;

(6) For NWP 14 (Linear Transportation Crossings), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;

(7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;

(8) For NWP 27 (Stream and Wetland Restoration), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;

TOLL FREE 866-727-

RALEIGH, NC 919-828-0303  
NEWARK, NJ 973-344-0004

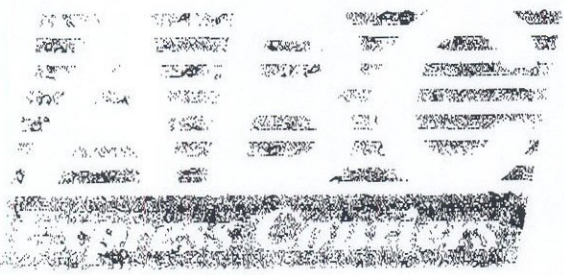


PICKUP DATE 9/1/06 PICKUP TIME 2:40

DRIVER DS # OF PIECES 1 WEIGHT 3

MILEAGE \_\_\_\_\_ DECLARED VALUE IF OVER \$50.00 \_\_\_\_\_

FAST LANE 2 HOUR  **SAME DAY BY 5 PM**  NEXT DAY BY 10 AM  3RD PARTY BILLING



419 N. BOYLAN AVE. RALEIGH, NC 27603  
ABCEXPRESSCOURIERS.COM

FROM \_\_\_\_\_ TO \_\_\_\_\_

COMPANY NAME S&EC. PA COMPANY NAME DWO

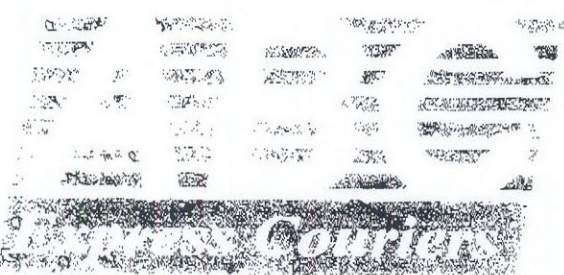
STREET ADDRESS 11010 RAVEN RIDGE ROAD STREET ADDRESS 2321 CRABTREE BLVD., STE. 250

CITY RALEIGH ST NC ZIP 27614 CITY RALEIGH ST NC ZIP 27604

PROJECT REF: NT-8341. W2 permit app 5 copies / S&EC check CONTACT NAME Cyndi Kardy

PHONE# (919) 846-5900 PHONE # (919) 733-1786

SIGNATURE X [Signature] DELIVERY DATE 9/1/06 DELIVERY TIME 3:11  
RECEIVED IN GOOD ORDER SUBJECT TO "TERMS AND CONDITIONS OF CONTRACT" ON REVERSE



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NEWARK, NJ 973-344-0004



PICKUP DATE 9/1/06 PICKUP TIME 2:40

DRIVER DS # OF PIECES 3 WEIGHT 5

MILEAGE \_\_\_\_\_ DECLARED VALUE IF OVER \$50.00 \_\_\_\_\_

FAST LANE 2 HOUR  **SAME DAY BY 5 PM**  NEXT DAY BY 10 AM  3RD PARTY BILLING

FROM \_\_\_\_\_ TO \_\_\_\_\_

COMPANY NAME S&EC. PA COMPANY NAME USACE

STREET ADDRESS 11010 RAVEN RIDGE ROAD STREET ADDRESS 6508 FALLS OF NEUSE RD., STE. 120

CITY RALEIGH ST NC ZIP 27614 CITY RALEIGH ST NC ZIP 27615

PROJECT REF: SB-8594. W1 JD Submittal packet CONTACT NAME Todd Ingwell / Eric Alsmeyer  
NT-8341. W2 permit app original  
SB-5818. W2 wetland del map for signoff

PHONE# (919) 846-5900 PHONE # (919) 876-8441

SIGNATURE X [Signature] DELIVERY DATE 9/1/06 DELIVERY TIME 2:52  
RECEIVED IN GOOD ORDER SUBJECT TO "TERMS AND CONDITIONS OF CONTRACT" ON REVERSE