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Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality

January 2, 2007

DWQ Project # 06-1574
Chatham County

Mr. Dan Sullivan
Contentnea Creek Development Company
8502-202 Six Forks Road
Raleigh, NC 27615

*Includes Pennington
North*

Subject Property:

Windfall Subdivision

Ut to Parkers Creek [030605, 16-41-9-(1), WSIV, NSW]

Windfall Branch Creek [030605, 16-41-8-(1), WSIV, B, NSW]

Approval of 401 Water Quality Certification with Additional Conditions

Dear Mr. Sullivan:

You have our approval, in accordance with the attached conditions and those listed below, to place fill within or otherwise impact 113 linear feet of perennial stream, and 219 linear feet of intermittent stream (207 linear feet permanent impacts, and 12 linear feet temporary impacts) to construct the proposed residential subdivision, as described within your application dated December 4, 2006, and received by the N.C. Division of Water Quality (DWQ) on December 4, 2006, with additional information received on December 5, 2006, and December 8, 2006. After reviewing your application, we have decided that the impacts are covered by General Water Quality Certification Number(s) 3402 (GC3402). The Certification(s) allows you to use Nationwide Permit(s) NW39, respectively, when issued by the US Army Corps of Engineers (USACE). In addition, you should obtain or otherwise comply with any other required federal, state or local permits before you go ahead with your project including (but not limited to) Erosion and Sediment Control, Non-discharge, and other regulations. **Also, 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.**

This approval is for the purpose and design that you described in your application. If you change your project, you must notify us and you may be required to send us a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter and is thereby responsible for complying with all conditions. If total fills for this project (now or in the future) exceed one acre of wetland or 150 linear feet of stream, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h). **This approval requires you to follow the conditions listed in the attached certification and any additional conditions listed below.**

The Additional Conditions of the Certification are:

Conditions of Certification:

1. Impacts Approved

The following impacts are hereby approved as long as all of the other specific and general conditions of this Certification (or Isolated Wetland Permit) are met. No other impacts are approved including incidental impacts:

	Amount Approved (Units)	Plan Location or Reference
Stream - perennial	113 (linear feet)	PCN pages 5 and 6 of 10
Stream - intermittent	219 [(linear feet) 207 linear feet permanent impacts, and 12 linear feet temporary impacts]	PCN pages 5 and 6 of 10

Sediment and Erosion Control:

2. 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 in order to protect surface waters standards:
 - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
 - b. The 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.
 - c. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
3. 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 404/401 Permit Application. 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;
4. Sediment and erosion control measures shall not be placed in wetlands or waters to the maximum extent practicable. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, they shall be removed and the natural grade restored within six months of the date that the Division of Land Resources has released the project;
5. Protective Fencing - The outside buffer, wetland or water boundary and along the construction corridor within these boundaries approved under this authorization shall be clearly marked with orange warning fencing (or similar high visibility material) for the areas that have been approved to infringe within the buffer, wetland or water prior to any land disturbing activities to ensure compliance with 15 NCAC 2H, Section .0500;
6. 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 DWQ 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;

7. Culvert Installation

Culverts required for this project shall be installed in such a manner that the original stream profiles are not altered. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal profile) must be maintained above and below locations of each culvert. Culverts shall be designed and installed to allow for aquatic life movement as well as to prevent head cutting of the streams. If any of the existing pipes are or become perched, the appropriate stream grade shall be re-established or, if the pipes installed in a perched manner, the pipes shall be removed and re-installed correctly.

Culvert(s) shall not be installed in such a manner that will cause aggradation or erosion of the stream up or down stream of the culvert(s). Existing stream dimensions (including the cross section dimensions, pattern and longitudinal profile) shall be maintained above and below locations of each culvert.

Placement of culverts and other structures in waters, streams, and wetlands must be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in disequilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium shall be maintained if requested in writing by DWQ.

The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of rip rap or other bank hardening methods. If rip-rap is necessary, it shall not be placed in the stream bed, unless specifically approved by the Division of Water Quality.

Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions.

Upon completion of the project, the Applicant shall complete and return the enclosed "Certificate of Completion" form to notify NCDWQ when all work included in the §401 Certification has been completed. The responsible party shall complete the attached form and return it to the 401/Wetlands Unit of the NC Division of Water Quality upon completion of the project. *Please send photographs upstream and downstream of each culvert site to document correct installation along with the Certificate of Completion form.*

Certificate of Completion:

8. Upon completion of all work approved within the 401 Water Quality Certification or applicable Buffer Rules, and any subsequent modifications, the applicant is required to return the attached certificate of completion to the 401/Wetlands Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650.

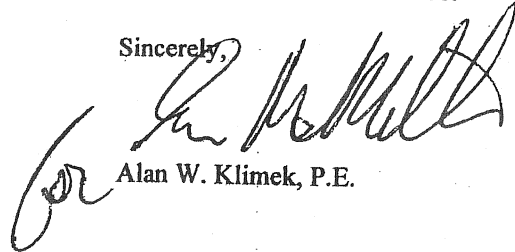
Also, this approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 or CAMA Permit.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. The authorization to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application and as authorized by this Certification shall expire upon expiration of the 404 or CAMA Permit.

If you do not accept any of the conditions of this Certification (associated with the approved wetland or stream impacts), you may ask for an adjudicatory hearing. You must act within 60 days of the date that you receive this letter. To ask for a hearing, send a written petition, which conforms to Chapter 150B of the North Carolina General Statutes to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. This certification and its conditions are final and binding unless you ask for a hearing.

This letter completes the review of the Division of Water Quality under Section 401 of the Clean Water Act. If you have any questions, please telephone Cyndi Karoly or Ian McMillan in the Central Office in Raleigh at 919-733-1786 or Mike Horan in the DWQ Raleigh Regional Office at 919-791-4200.

Sincerely,



Alan W. Klimek, P.E.

AWK/ijm

Enclosures: GC3402
Certificate of Completion

cc: Mike Horan, DWQ Raleigh Regional Office
USACE Raleigh Regulatory Field Office
File Copy
Central Files
Jennifer Burdette, Burdette Land Consulting, Inc., 308D W. Millbrook Road, Suite 200, Raleigh, NC 27609

Subj: **Windfall 401 Approval**
Date: 1/4/2007 4:48:45 PM Eastern Standard Time
From: jburdetteblc@bellsouth.net
To: dan@standoutproperties.com, Coachjwh@aol.com

Attached is the DWQ 401 approval for John's use and reference. You now have both the 404 and 401 and can proceed with the impacts as presented in the PCN dated December 4, 2006. Call me if you need additional copies.

There are two important points that I need to mention.

Please be sure that the contractor receives the culvert length and design information that was presented in the PCN especially the third road crossing that will need to be shortened and buried appropriately.

Please also either call me when the all of the culverts are installed or have someone to take a picture of the upstream and downstream ends of all of the culverts after their installed to document proper installation as required by the 401 approval (see #7 Culvert Installation - last line in italics).

Thanks

Dan - please send me and John a copy of the certification of completion that you received with the 401. My copy does not include that attachment.

I hope you're both having a great new year!

Jennifer Burdette
Burdette Land Consulting, Inc.
308D W Millbrook Road, Suite 200
Raleigh, North Carolina 27609

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