

## **SPECIAL CONDITIONS**

**Action ID: SAW-2010-01840**

### **The University of North Carolina at Chapel Hill**

Failure to institute and carry out the details of the following special conditions below (listed as a-w) will result in a directive to cease all ongoing and permitted work within waters of the United States, including wetlands, associated with the permitted project, or such other remedies and/or fines as the U.S. Army Corps of Engineers District Commander or his authorized representatives may seek.

- a) The North Carolina Division of Water Quality (DWQ) permit/certification Number 3870 was issued for this project on November 10, 2011. Special conditions were issued associated with this water quality permit/certification and a copy of these conditions is attached as Exhibit A. These referenced conditions are hereby incorporated as special conditions of this permit.
- b) All work authorized by this permit must be performed in strict compliance with the attached plans which were received on January 4 and March 25, 2011. These plans are a part of this permit and identified as Exhibit B. Any modification to these plans that may result in direct or indirect impact to wetlands and streams must be approved by the US Army Corps of Engineers (USACE) prior to implementation.
- c) For any portion of Phase II of this project, prior to commencing construction within wetlands or streams or other waters, the permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Raleigh Regulatory Field Office Regulatory Project Manager. Half-size drawings will be acceptable. All wetlands and streams must also be clearly marked on these plans.
- d) For Phase I and II of the project, the permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Raleigh Regulatory Field Office, Regulatory Project Manager, prior to any work within any wetlands, streams or other waters to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The permittee shall provide the USACE, Raleigh Regulatory Field Office, Regulatory Project Manager, with a copy of the final construction design plans at least two weeks prior to the preconstruction meeting. The permittee shall schedule the preconstruction meeting for a time when the USACE and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The permittee shall invite the Corps and NCDWQ Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.
- e) Throughout the duration of Phase II of this project, the permittee will provide as-built plans of any building, roads parking lots, trails or other appurtenances or facilities that require fill to be placed within wetlands or streams on the property. These as-built plans will clearly

## **SPECIAL CONDITIONS**

**Action ID: SAW-2010-01840**

### **The University of North Carolina at Chapel Hill**

show the impacted waters and will be submitted within 120 days of project completion. UNC-CH will submit an extension request to the USACE if an extension beyond this time frame is needed. If any construction is planned outside of the Phase II footprint, as indicated in the approved plans, the permittee must contact the USACE representative prior to commencing the activity, to determine if a permit modification is necessary.

- f) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.
- g) Except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within waters or wetlands or to reduce the reach of waters or wetlands.
- h) Compensatory mitigation for the unavoidable impacts to 452 linear feet of stream and 2.184 acres of riparian wetland impact associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated January 26, 2012, from Michael Ellison, EEP Deputy Director. Pursuant to the In-Lieu-Fee Instrument signed July 28, 2010, between the State of North Carolina, Ecosystem Enhancement Program and the US Army Corps of Engineers the EEP will provide 552 linear feet of restoration equivalent warm water stream channel and 2.42 acres of riparian wetland restoration equivalent in the Cape Fear River basin (Hydrologic Cataloging Unit 03030002) in accordance with Section F of the instrument. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration.
- i) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. In the event of a spill of petroleum products or any other hazardous material that requires reporting under the provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act, the permittee shall immediately report it to the N.C. Division of Water Quality at 1 (800) 858-0368 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

## **SPECIAL CONDITIONS**

**Action ID: SAW-2010-01840**

### **The University of North Carolina at Chapel Hill**

- j) The permittee shall advise the Corps in writing prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.
- k) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.
- l) The permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit. A copy of this permit, including all conditions, shall be available at the project site during construction and maintenance of this project
- m) The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).
- n) The permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.
- o) During the clearing phase of the project, heavy equipment must not be operated in surface waters or stream channels. Temporary stream crossings will be used to access the opposite sides of stream channels. All temporary diversion channels and stream crossings will be constructed of non-erodable materials. Grubbing of riparian vegetation within 50 feet of a stream will not occur until immediately before construction begins on a given segment of stream channel.
- p) No fill or excavation for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless it is included on the plan drawings and specifically authorized by this permit.
- q) The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore

## **SPECIAL CONDITIONS**

**Action ID: SAW-2010-01840**

**The University of North Carolina at Chapel Hill**

the water or wetland to its pre-project condition. Provided that, if a phase of a project construction has been completed in compliance with this permit, and successful mitigation has been provided for that phase, this condition shall not apply to that completed and compliant phase of the project. Permittee may seek written concurrence from the USACE that a phase of construction is compliant with the permit in order to satisfy this condition.

- r) Violations of these conditions or violations of Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District U.S. Army Corps of Engineers within 24 hours of the permittee's discovery of the violation.
- s) The permittee will ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Written verification shall be provided that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Raleigh Regulatory Field Office prior to any active construction in waters or wetlands.
- t) The permittee shall take measures to prevent live or fresh concrete from coming into contact with any surface waters until the concrete has hardened.
- u) Measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed opening should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gauge data, if available. In the absence of such data, bankfull flow can be used as a comparable level.
- v) Culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The bottom of the culvert must be placed at a depth below the natural stream bottom to provide for passage during drought or low flow conditions. Destabilizing the channel and head cutting upstream should be considered in the

## **SPECIAL CONDITIONS**

**Action ID: SAW-2010-01840**

### **The University of North Carolina at Chapel Hill**

placement of the culvert. A waiver from the depth specifications in this condition may be requested in writing. The waiver will be issued if it can be demonstrated that the proposal would result in the least impacts to the aquatic environment, except for culverts detailed in the February 16, 2011, UNC-CH response to the January 18, 2011, USACE comments.

- w) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the permittee has that information. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands.