



North Carolina Department of Environment and Natural Resources  
Division of Water Quality

Beverly Eaves Perdue  
Governor

Coleen H. Sullins  
Director

Dee Freeman  
Secretary

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April 28, 2010

DWQ Project # 2006-1275 Ver. 2  
Dare County

Town of Nags Head  
Mr. Cliff Ogburn, Town Manager  
Post Office Box 99  
Nags Head, NC 27959

Subject Property: Nags Head Emergency Beach Nourishment  
Atlantic Ocean

**Approval of 401 Water Quality Certification (GC 3642) with Additional Conditions**

Dear Mr. Ogburn:

You have our approval, in accordance with the attached conditions and those listed below, to place fill within or otherwise impact 575 acres of open waters from dredge (offshore borrow site S1, as ID by ACE) and 591 acres of ocean beach fill for the purpose of beach nourishment at the subject property, as described within your application dated August 18, 2009 and received by the N.C. Division of Water Quality (DWQ) on December 10, 2009. After reviewing your application, we have decided that the impacts are covered by General Water Quality Certification Number(s) 3642 (GC3642). **This Certification allows you to use the CAMA Major Permit when the Division of Coastal Management issues it.** 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 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:**

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North Carolina Division of Water Quality  
943 Washington Square Mall  
Washington, NC 27889

Internet: [www.ncwaterquality.org](http://www.ncwaterquality.org)  
Phone: 252-946-6481  
FAX 252-946-9215

One  
North Carolina  
*Naturally*

## 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	(feet)	
404/CAMA Wetlands	(acres)	
Open Waters	575 (acres)	Offshore Borrow Sites S1
Beach Nourishment	591 (acres)	Blackmon St. to McCall Court

## 2. Erosion &amp; Sediment Control Practices

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. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
- d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), Trout (Tr), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supersede all other sediment and erosion control requirements.

## 3. No Waste, Spoil, Solids, or Fill of Any Kind

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 Pre-Construction Notification and authorized by this written approval, including incidental impacts. 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. No Sediment & Erosion Control Measures w/n Wetlands or Waters

Sediment and erosion control measures shall not be placed in wetlands or waters without prior approval by DWQ. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources has released the project.

5. If concrete is used during the construction, then a dry work area should be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete should not be discharged to surface waters due to the potential for elevated pH and possible aquatic life/fish kills.

6. Certificate of Completion

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 Oversight/Express Review Permitting Unit, North Carolina Division of Water Quality, 1650 Mail Service Center, Raleigh, NC, 27699-1650.

7. The applicant/permittee is required to comply with the North Carolina Wildlife Resources Commission (NCWRC) and US Fish & Wildlife Service (as stated in their August 18, 2008 Biological Opinion) monitoring and conservation measures recommended for the Town of Nags Head Beach Nourishment Project. The applicant/permittee shall also implement improvements to monitoring plan recommended by the Division of Marine Fisheries and monitoring and mitigation plans proposed in the Major CAMA Permit application (pages 10-12).
8. The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Water Quality Certification.

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 15A NCAC 02H. .0500. If you have any questions, please telephone Roberto Scheller of the Washington Regional Office at 252-948-3940 or Ian McMillan of the 401 Oversight/Express Unit at 919-715-4631.

Sincerely,

Coleen H. Sullins

Enclosures: Certificate of Completion  
GC 3642

cc: Corps of Engineers Washington Field Office  
DWQ 401 Oversight/Express Unit  
CAMA, Doug Hugget, Morehead Office  
CAMA, John Cece, Morehead Office  
File copy

Filename: 06-1275 Ver.2