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DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
69 DARLINGTON AVENUE
WILMINGTON, NORTH CAROLINA 28403-1343

December 7, 2017

Regulatory Division

Action ID: SAW-2017-02351

HRP Renaissance Market, LLC
Attn: Messrs. Randy Kelley and Raiford Trask, III
3 Keel Street, Suite #2
Wrightsville Beach, North Carolina 28480

Dear Messrs. Kelley and Trask:

Please reference your November 7, 2017 request, submitted by your agent, Southern Environmental Group, Inc., to modify the Department of the Army (DA) permit issued on December 13, 2006 to impact jurisdictional waters and wetlands associated with the 70-acre development of Research Park at Westfall. This property is located at the intersection of Sir Tyler Drive and Military Cut-Off Road, adjacent to an unnamed tributary of Howe Creek, in Wilmington, New Hanover County, North Carolina.

Specifically, you requested to modify (2) stream crossings of the DA authorization within a 6.5-acre parcel under your ownership, known as Renaissance Market at Westfall, that continues to be proposed as commercial development. Egress and ingress surrounding the development on this parcel has undergone changes in order to accommodate increased traffic and safety concerns. Total stream impacts remain at 100 linear feet.

Upon review of the request, our office has determined that the design modifications associated with Renaissance Market development on the 6.5-acre parcel can be granted pursuant to Section 404 of the Clean Water Act provided adherence to all new, modified, and applicable original conditions in Attachment (A). This authorized modification, which only applies to the Renaissance Market development, will be valid until December 31, 2022.

All of the original December 13, 2006 permit's General Conditions 2-6 and Further Information 1-6 (Attachment B) remain applicable. If you have any questions or comments, please contact me at (910) 251-4811 or mickey.t.sugg@usace.army.mil, Wilmington Regulatory Field Office.

FOR THE DISTRICT ENGINEER


Mickey Sugg, Project Manager
Wilmington Regulatory Field Office

Enclosures

Copies Furnished (w/enclosures):

HRP Renaissance Market, LLC
Attn: Randy Kelley and Raiford Trask, III
1202 Eastwood Road
Wilmington, North Carolina 28403

Mr. David Syster
Southern Environmental Group, Inc.
5315 South College Road
Suite E
Wilmington, North Carolina 28412

E-copies (w/enclosures):

Ms. Karen Higgins
Division of Water Resources
North Carolina Department of
Environmental Quality
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

Ms. Courtney Spears
North Carolina Division of Coastal
Management
127 Cardinal Drive Extension
Wilmington, North Carolina 28405

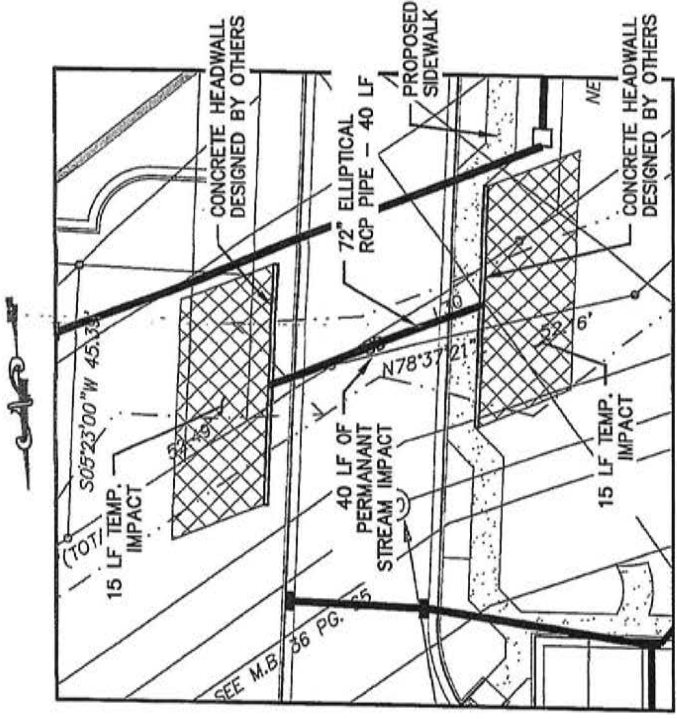
Mr. Chad Coburn
North Carolina Division of Water Resources
127 Cardinal Drive Extension
Wilmington, North Carolina 28405

Mr. Ken Riley
National Marine Fisheries Service, NOAA
Habitat Conservation Division
Pivers Island
Beaufort, North Carolina 28516

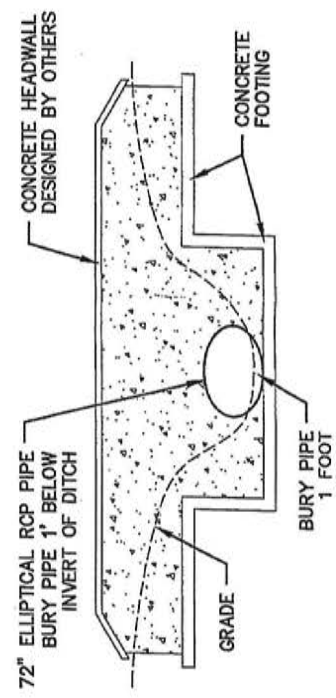
Ms. Maris Dunn
North Carolina Wildlife Resource
Commission
943 Washington Square Mall
Washington North Carolina 27889

Ms. Kathy Matthews
U.S. Fish and Wildlife Services
Post Office Box 33726
Raleigh, North Carolina 27636-3726

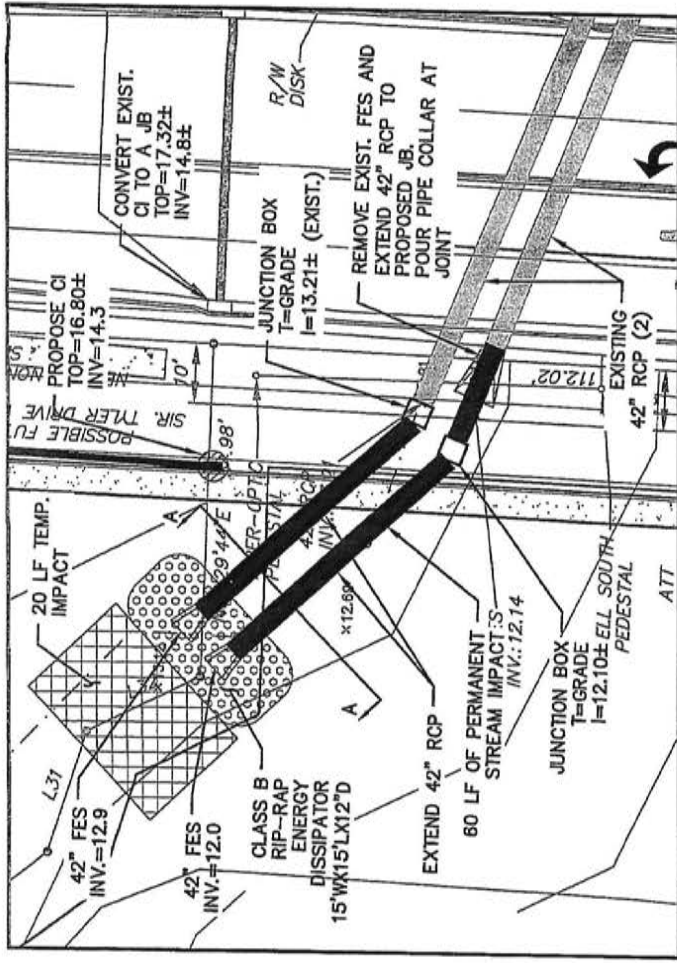
Mr. Todd Bowers
U.S. Environmental Protection Agency
Wetland Section- Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960



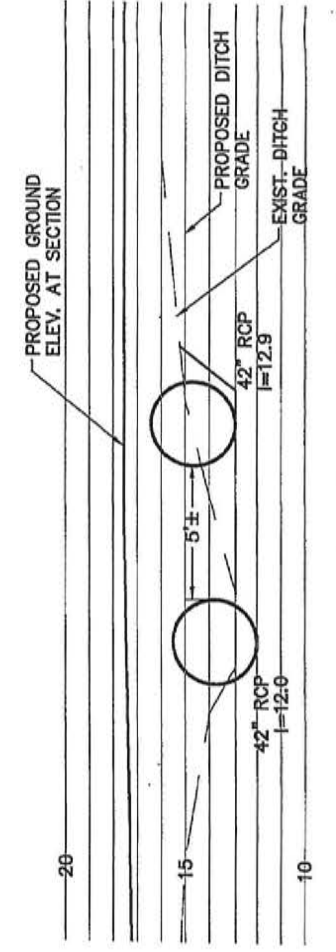
DETAIL "B" - OFFSITE STORM WATER



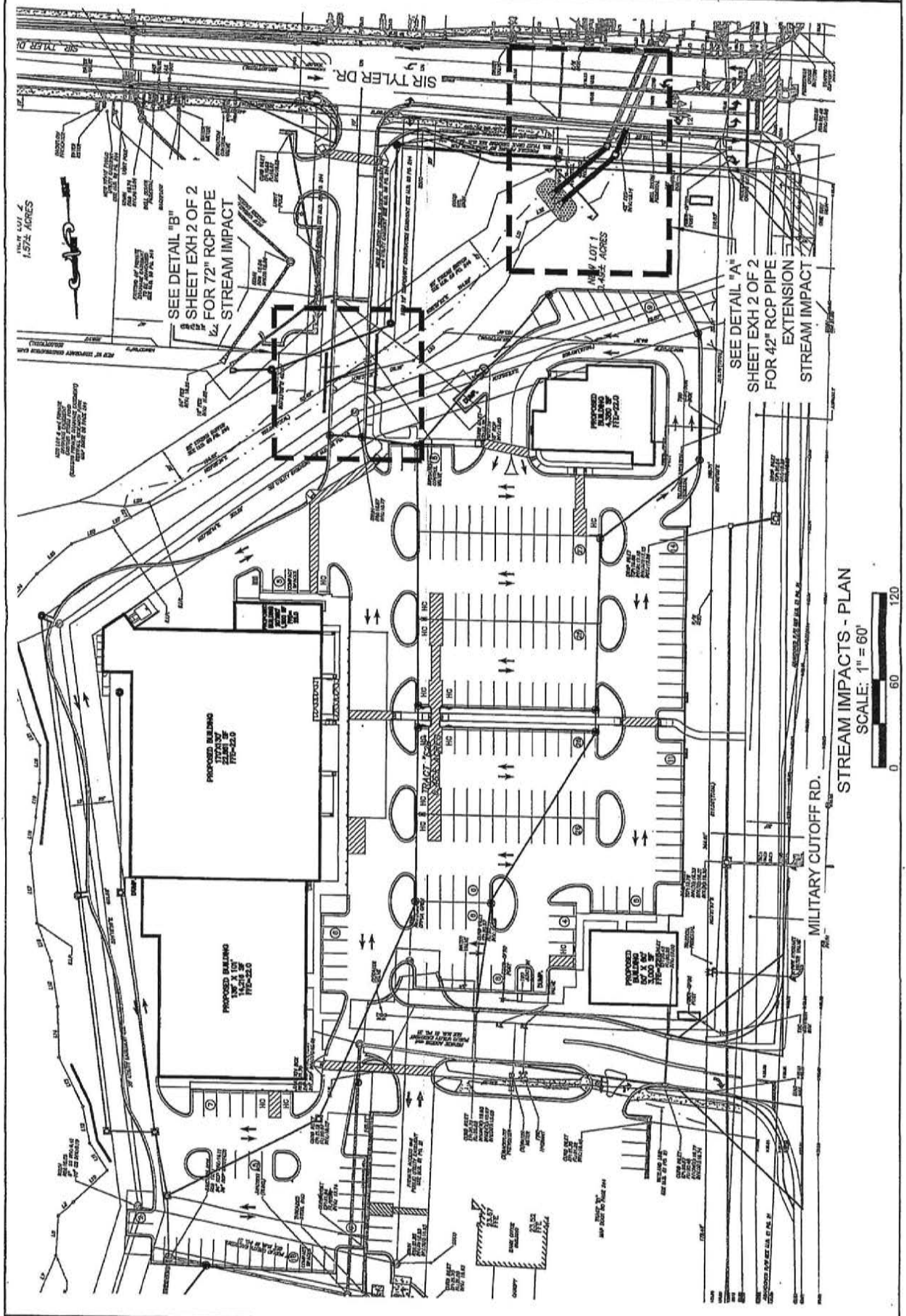
HEADWALL CROSS SECTION
N.T.S.



DETAIL "A" - OFFSITE STORM WATER



STREAM IMPACT SECTION A-A DETAIL
N.T.S.



ATTACHMENT (A)

SPECIAL CONDITIONS (Action ID 2017-02351)

In accordance with 33 U.S.C. 1341 (d), all conditions of the North Carolina Division of Water Quality 401 Certification is incorporated as part of the Department of the Army permit. Therefore, they are not listed as special conditions. The following Special Conditions include the unchanged, modified, and new conditions. **NOTE:** Strikethrough and bold markings indicate modifications of existing conditions and asterisk (*) identifies newly added special conditions.

Work Limits

a) All work authorized by this permit must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to these plans must be approved by the US Army Corps of Engineers (USACE) prior to implementation.

b) 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.

c) 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.

Related Laws

d) If the North Carolina Division of Water ~~Quality~~ **Resources** has issued, **or reissued**, a conditioned Water Quality Certification for your project, the conditions of that certification are hereby incorporated as special conditions of this permit. ~~Attached is a copy of the certification for your convenience.~~

e) 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 waste, the permittee shall immediately report it to the N.C. Division of Water ~~Quality~~ **Resources** at (919) 733-5083, Ext. 526 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

*e-1) All necessary precautions and measures will be implemented so that any activity will not kill, injure, capture, pursue, harass, or otherwise harm any protected federally listed species. While accomplishing the authorized work, if the permittee discovers or observes a damaged or hurt listed endangered or threatened species, the District Engineer will be

immediately notified so that required coordination can be initiated with the U.S. Fish and Wildlife Service.

*e-2) This Department of the Army permit does not obviate the need to obtain other Federal, State or local authorizations required by law.

*e-3) If cultural resources are encountered during construction, the District Engineer will be immediately notified so that coordination can be initiated with the North Carolina Department of Cultural Resources, State Historic Preservation Office. In emergency situations, the permittee should immediately contact their office in Raleigh, NC at (919-807-6570), so that a full assessment of the findings can be made.

Project Maintenance

f) 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.

g) The permittee shall advise the Corps in writing, at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

h) 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.

i) 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).

j) 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 the water or wetland to its pre-project condition.

*j-1) For the installation of the culverts/headwalls, the following measures will be included in the construction/placement of structures:

a) The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by altering the width or depth of the stream profile in connection with the construction activity. The width, height, and gradient of the proposed culverts should be sufficient 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 gauge data, bank-full flow can be used as a comparable indicator.

b) 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 to maintain aquatic passage and to maintain passage during drought or low flow conditions, and every effort shall be made to maintain the existing channel slope.

c) Culverts must be designed and constructed in manner that minimizes destabilization and head cutting. Destabilizing the channel and head cutting upstream should be considered and appropriate actions incorporated in the design and placement of the culvert.

d) A waiver from the depth specifications in this condition may be requested, in writing, by the permittee and issued by the Corps; this request must be specific as to the reason(s) for the request. The waiver will be issued if it can be demonstrated that the proposed design would result in less impacts to the aquatic environment.

e) Culverts placed within the riparian wetlands must be installed in a manner that does not restrict the flow and circulation patterns of waters of the United States.

Enforcement

k) 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.

*k-1) A representative of the Corps of Engineers will periodically and randomly inspect the work for compliance with these conditions. Deviations from these conditions may result in cessation of work until the problem is resolved to the satisfaction of the Corps.

Mitigation

*l) Precautions must be taken to ensure that no activity occur within the adjacent recorded area titled **Conservation Easement Map of Section 2, Westfall Park**. It is strongly recommended that the boundary bordering the conservation easement be visibly identified, or delineated, to avoid any unintentional encroachment. Please be aware and reminded that the permittee is prohibited from performing any of the following activities in this property: Filling,

grading, excavating; earth movement of any kind; construction of roads, walkways, buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material; or any other activity which would result in the wetlands being adversely impacted or destroyed, except as specifically allowed in the Permanent Conservation Easement.

ATTACHMENT (B)

DEPARTMENT OF THE ARMY PERMIT

RECEIVED

DEC 11 2006

REGULATORY
WILM. FLD. OFC.

Permittee **MR. RAIFORD TRASK, III**
Permit No. **2004-9981703-065**
Issuing Office **CESAW-RG-L**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: **authorizes impacts to jurisdictional wetlands and stream channel; specifically the discharge of fill material into 0.44 acre of riparian wetlands and 100 linear feet of an unnamed tributary to Howe Creek, and the temporarily impact to 56 linear feet of the unnamed tributary to Howe Creek and 140 square feet of wetland associated with the construction of the Research Park at Westfall mixed-use development**

Project Location: **along the eastside of Military Cutoff Road, in Wilmington, New Hanover County, North Carolina**

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **December 31, 2009**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit,

Special Conditions:

SEE ATTACHED SPECIAL CONDITIONS

Further Information:

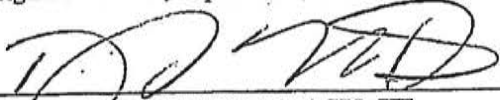
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
 5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

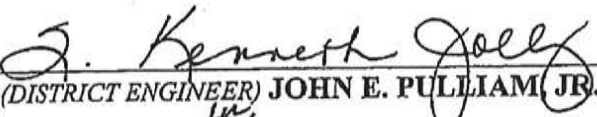
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit, Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 _____ 12/16/06 _____
 (PERMITTEE) **RAIFORD TRASK, III** (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

 _____ 12/13/06 _____
 (DISTRICT ENGINEER) **JOHN E. PULLIAM, JR., COLONEL** (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

 (TRANSFEREE) (DATE)