Healthy People. Healthy Communities.

RECEIVED
SEP 3 - 2020
Environmental Management
SCDOT

August 31, 2020

SC Dept of Transportation
PO Box 191
Columbia SC 29202

Re: Certification in Accordance with Section 401 of the Clean Water Act, as amended, with conditions pursuant to R. 19-450 et. seq., 1976 SC Code of Laws, *Permit For Construction in Navigable Waters*

SC Dept of Transportation
Placement of fill material and other structures in waters of the US
Saluda River and tributaries to Broad River and wetlands adjacent to these tributaries
Lexington and Richland County
P/N SAC 2015-01080

Dear Sir or Madam:

South Carolina Department of Health and Environmental Control (DHEC) has reviewed plans for this project and determined that there is a reasonable assurance that the proposed project will be conducted in a manner consistent with the Certification requirements of Section 401of the Federal Clean Water Act, as amended, and the permitting requirements of R. 19-450 et. seq., 1976 SC Code of Laws.

In accordance with the provisions of Section 401, we certify that this project, subject to the indicated conditions, is consistent with applicable provisions of Section 303 of the Federal Clean Water Act, as amended. We also hereby certify that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307.

This certification is subject to the following conditions:

401 Water Quality Certification conditions

1. The applicant must implement appropriate best management practices that will minimize erosion and migration of sediments on and off the project site during and after construction. These practices should include the use of appropriate grading and sloping techniques, mulches, silt fences, or other devices capable of preventing erosion, migration of sediments, and bank failure. All disturbed land surfaces and sloped areas affected by the project must be stabilized.

2. All necessary measures must be taken to prevent oil, tar, trash, debris, and other pollutants from entering the adjacent waters, wetlands, or offsite areas.

3. The applicant must adhere to the commitments related to the cultural resources/sites included in the Federal Highways Association's Record of Decision for the final Environmental Impact Statement. Specifically, the applicant must adhere to the following:

    a. During the construction phase of the project, the contractor/subcontractor must notify workers to watch for the presence of any prehistoric or historic remains, including but not limited to arrowheads, pottery, ceramics, flakes, bones, graves, gravestones, or brick concentrations. If any such remains are encountered, the Resident Construction Engineer and SCDOT's Construction Manager should be notified immediately, and all work in the vicinity of the discovered materials and site shall cease until the SCDOT Chief Archaeologist directs otherwise.
    b. An archaeological professional must be present during any ground disturbing activities related to Site 38LX212. Additionally, sites 38RD140, 38RD1175, and 38RD1176 will be protected from indirect effect, including borrow sites and equipment staging. Sites must be clearly marked in the field using orange construction fencing prior to beginning construction activities in the vicinity of the resources.
    c. The Saluda Canal (Site 38RD59) must be clearly plotted on all construction plans along with an appropriate 25-foot buffer. This zone must be clearly marked in the field using orange fencing during construction, and all ground disturbance and construction staging activities must be conducted outside of this buffer in order to avoid all possible impacts to the resource.

4. Only clean, earthen material free of all potential sources of pollution may be used as fill in the aquatic impact area.

5. The project must be in compliance with any applicable local floodplain, erosion, and sediment control and/or stormwater ordinances.

6. Construction activities must avoid and minimize, to the greatest extent practical, disturbance of woody shoreline vegetation within the project area. Removal of vegetation should be limited to only what is necessary for construction of the proposed structures. Where necessary to remove vegetation, supplemental plantings should be installed following completion of the project. These plantings should consist of appropriate native species for the ecoregion.

7. For compensatory mitigation, the applicant must provide 76,566.70 stream and 44.966 wetland mitigation credits for impacts incurred by the proposed project. As mitigation for impacts to wetlands and waters of the United States, the applicant shall implement the following:

    a. Preservation of approximately 45,262 linear feet of freshwater streams on the Belfast Extension and PH Timber tracts as identified by the PRM Plan;
    b. Preservation of 8.412 acres of wetlands on the PRM sites;
    c. Restoration/Enhancement of approximately 18,484 linear feet of freshwater streams on the PH Timber tract;
    d. Remaining wetlands credits must be debited from a Corps approved mitigation bank.

DHEC reserves the right to impose additional conditions on this Certification to respond to unforeseen, specific problems that may arise and to take any enforcement action necessary to ensure compliance with State water quality standards.

Sincerely,

Heather Preston, Director
Division of Water Quality
Bureau of Water

cc: U.S. Army Corps of Engineers,
Charleston District Office
Midlands-Lexington and Richland Counties- Environmental Affaris District Office

GENERAL CONDITIONS OF NAVIGABLE WATERS PERMITS

A. The authorization for activities or structures granted by this permit shall constitute a revocable license to use the lands or waters within the jurisdiction of the state.

B. The Department may require the permittee to modify or remove activities or structures authorized herein if it is determined by the Department that such modification or removal is consistent with the requirement of 450.9(A) [condition A above]. Modification or removal after the permit has been granted shall be ordered only after reasonable notice stating the reasons therefore and providing the permittee an opportunity to be heard.

C. All activities authorized by the permit shall be consistent with and limited by the terms and conditions of this permit; any unauthorized work or activity different from or inconsistent with the permit may result in the modification, suspension, or revocation of the permit in whole or in part, and the institution of such legal proceedings as the State of South Carolina may consider appropriate.

D. The construction authorized by this permit must be completed within three years of the date of issuance or such time as the Department may set for good cause shown. Extensions of time may be granted provided that the requests are submitted to the Department in writing prior to the expiration of the original time period, state whether there has been any change in the circumstances since the permit was approved and the reason for the extension of time.

E. No permit shall convey nor be interpreted as conveying expressly or implicitly, any property right in the land or water in which the permitted activity is located. No permit shall be construed or interpreted as alienating public property for private use, nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of other persons or the public.

F. The grant, denial, modification, suspension, revocation of a permit or removal of a structure authorized under this permit, shall not be the basis for any claim for damages against the State of South Carolina. In no way shall the State be liable for any damage as the result of the erection of permitted works.

G. The permitted activities shall not block or obstruct navigation or the flow of any waters unless specifically authorized herein; no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the work authorized by this permit; and, no spoil, dredged material, or any other fill material shall be placed below the mean high water or ordinary high water elevation, unless specifically authorized herein.

H. The permittee shall make every reasonable effort to perform the authorized work in a manner to minimize adverse impact on fish, wildlife, or water quality, and shall maintain any authorized structure in good condition in accordance with approved plans and specifications.

I. The permittee shall allow the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary to assure that the activity being performed is in accordance with the terms and conditions of this permit.

J. Permits are issued in the name of the applicant and may not be assigned to another without written permission of the Department and the written agreement of the transferee to abide by all the terms and conditions of the permit.

K. Permittee must notify the South Carolina Department of Archives and History (Rebekah Dobrasko, [803] 896-6183, Historic Preservation Division, 8301 Parklane Rd, Columbia, South Carolina 29223) if any archaeological materials are encountered during the course of the work. Archaeological materials consists of any items, fifty years or older, which were made or used by man. These items include, but are not limited to stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeleton remains. These materials may be present on the ground surface and/or under the surface of the ground.

L. Permittee must notify the South Carolina Institute of Archaeology and Anthropology (Dr. Jonathan Leader, [803] 576-6560) in accordance with South Carolina Underwater Antiquities Act of 1991 (Article 5, Chapter 7, Title 54 Code of Laws of South Carolina, 1976) in the event archaeological or paleontological remains are found during the course of work. Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or nonrecent (i.e., older than 100 years) vessel ruins. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.