

DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
Wilmington District  
Post Office Box 1890  
Wilmington, North Carolina 28402-1890

**PUBLIC NOTICE**

**April 21, 2003**

The Wilmington District of the U.S. Army Corps of Engineers (USACE), the North Carolina Department of the Environment and Natural Resources (NCDENR), and the North Carolina Department of Transportation (NCDOT) are proposing to enter into a Memorandum of Agreement (MOA) regarding use of the NCDENR Ecosystem Enhancement Program (EEP) as an "in-lieu fee" program to provide compensatory mitigation for NCDOT transportation projects. This MOA provides the framework for the EEP to address compensatory mitigation for impacts to wetlands and streams in North Carolina resulting from individual and general permit authorizations for NCDOT transportation projects issued to NCDOT by the USACE pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. A copy of the proposed MOA is attached.

The intent of the MOA is to provide the procedures and guidelines that the EEP must follow in order to assume and fulfill its responsibilities in providing the required compensatory mitigation. It does not change the USACE decision-making process or requirements on either individual or general permits.

**Essential features of the MOA are:**

1. Permit issuance and use of the EEP for compensatory mitigation may occur only after the proposed project has complied with USACE regulations and policy regarding wetland avoidance and minimization.
2. The EEP will provide upfront, watershed-need based, compensatory mitigation for NCDOT transportation projects that have impacts to waters and wetlands.
3. It is anticipated that with the successful implementation of the EEP, most USACE permit decisions on NCDOT projects requiring compensatory mitigation will utilize EEP mitigation to fill that compensatory mitigation need.
4. A "Program Assessment and Consistency Group" consisting of Federal and State review agencies will be convened, at least quarterly, to provide oversight and review of the EEP mitigation program.

Comments on the proposed MOA are invited, and should be furnished to:

U.S. Army Engineer District  
Attn: David Franklin  
Post Office Box 1890  
Wilmington, NC 28402

Comments must be received no later than 21 May 2003.

Attachment



MEMORANDUM OF AGREEMENT

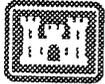
AMONG THE

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES



AND

THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION



AND

THE UNITED STATES ARMY CORPS OF ENGINEERS, WILMINGTON DISTRICT

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This Memorandum of Agreement (MOA) is entered into by the North Carolina Department of Environment and Natural Resources (hereinafter "NCDENR"), the North Carolina Department of Transportation (hereinafter "NCDOT"), and the United States Army Corps of Engineers, Wilmington District (hereinafter "USACE"), to establish the procedures for providing compensatory mitigation through the NCDENR Ecosystem Enhancement Program (EEP) to offset impacts to waters and wetlands due to activities authorized by Clean Water Act permits.

**I. Purpose of MOA**

A. This MOA is an extension of the concept and agreements in principle of the Memorandum of Understanding among the NCDENR, NCDOT, and USACE, dated June 12, 2002. The purpose of this MOA is to establish the procedures and guidelines for coordination between the USACE and NCDENR, acting through the EEP, concerning compensatory mitigation requirements for permits authorized under Section 404 of the Clean Water Act, 33 USCA § 1344 and Section 10 of the Rivers and Harbors Act, 33 USCA § 403. Compensatory mitigation is defined as the restoration, enhancement, creation, and/or preservation of wetlands or other waters of the United States needed to offset the unavoidable loss or degradation of waters of the United States due to activities authorized by Clean Water Act permits. The terms restoration, enhancement, creation, and preservation as used in this agreement shall be defined in

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accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks, 60 Fed. Reg. 58605.

B. This MOA addresses the substantial compensatory mitigation needs generated by the transportation program administered by the NCDOT within the State of North Carolina. The three signatory agencies agree that mitigation for these transportation projects should occur before impacts and should be planned and executed in a comprehensive manner considering both the ecological needs within the relevant watershed and anticipated NCDOT impacts within that watershed.

C. This MOA does not address an in-lieu-fee compensatory mitigation program for permittees other than NCDOT; those permittees will continue to be covered under the existing Memorandum of Understanding between the NCDENR/WRP and the USACE, dated November 8, 1998.

## II. Authority

A. The Secretary of the Army is charged with administering Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The Secretary of the Army has delegated Section 404 and Section 10 permit authority to the Corps of Engineers. Permits issued under these authorities generally require compensatory mitigation to replace aquatic resource functions and values that are unavoidably lost as a result of those permits. In lieu fee mitigation occurs where a permittee provides funds to an in lieu fee sponsor instead of either completing project specific mitigation or purchasing credits from a mitigation bank. Compensatory mitigation objectives and guidance are provided in Corps of Engineers regulations and the following guidance documents:

- 1990 Memorandum of Agreement between the Environmental Protection Agency and The Department of the Army concerning the Determination of Mitigation Under the Clean Water Act Section 404(b)(1) Guidelines.

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- November 28, 1995 Federal Guidance on the Establishment, Use and Operation of Mitigation Banks
- October 2000, Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.
- December 26, 2002 Regulatory Guidance Letter, Subject: Guidance on Compensatory Mitigation Projects for Aquatic Resource Impacts Under the Corps Regulatory Program Pursuant to § 404 of the Clean Water Act and § 10 of the Rivers and Harbors Act of 1899.

B. The NCDENR Ecosystem Enhancement Program is the refocused and renamed non-regulatory program that includes the current organization executing the North Carolina Wetlands Restoration Program (WRP) required by NCGS 143-214.8 through N.C.G.S. 143-214.13. The WRP has been administered to protect and improve water quality, flood prevention, fisheries, wildlife and plant habitats, and recreational opportunities through the restoration, enhancement and preservation of wetlands and riverine areas within North Carolina's water basins, and will now be improved and administered by the EEP. The EEP will function consistently with the WRP laws and mandates, and will be fully integrated with the existing water quality and habitat plans of the NCDENR.

### **III. Purpose and Mission of the Ecosystem Enhancement Program**

A. The purpose of the EEP is to provide a comprehensive, natural resource enhancement program that identifies ecosystem needs at the local watershed level and preserves, enhances, and restores ecological functions within the target watersheds while addressing impacts from anticipated NCDOT transportation projects. All ecological enhancement activities are to be undertaken by the NCDENR with participation by State and Federal agencies and will be eligible for funding through multiple sources, including, but not limited to, programmed transportation

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funding. The goal of the EEP is to provide effective protection of the natural resources of the State by assessing, prioritizing, restoring, enhancing and preserving ecosystem functions and providing compensatory mitigation for development impacts by addressing watershed or basin needs and developing enhancement projects where the most benefit would be experienced. An additional goal of the EEP is to advance environmental stewardship through the identification of unique enhancement opportunities that, if implemented, would provide substantial benefit and protection to the natural resources of the State of North Carolina.

B. The EEP mission is to restore, enhance, preserve and protect the functions associated with wetlands, streams and riparian areas including but not limited to those necessary for the restoration, maintenance and protection of water quality and riparian habitats throughout North Carolina. The goals of the EEP are to:

- Execute the requirements placed on the NCDENR by the North Carolina Wetlands Restoration Program Act (NCGS 143-214.8, et seq.)
- Enhance the natural resources of North Carolina by addressing watershed needs.
- Fully satisfy compensatory mitigation requirements for authorized impacts on a programmatic, watershed-level basis.
- Provide in-ground, functioning compensatory mitigation for authorized impacts in advance of the actual impacts.
- Satisfy the compensatory wetland, stream and buffer mitigation needs of the NCDOT transportation program.
- Provide a means for organizing, steering, funding, and implementing ecosystem enhancement efforts in the State of North Carolina

#### IV. Watershed Restoration Plans and Watershed Needs Assessment

A. NCDENR will review and revise the watershed restoration plans for each of the 17 river basins in North Carolina on a 5-year planning cycle as a component of the NC Division of Water Quality's Basinwide Water Quality Management Plans.

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B. NCDENR will use the plans to identify basinwide ecological needs as well as restoration, creation, enhancement and preservation opportunities, and to provide a focus for the development of local watershed plans using a GIS Needs Analysis Methodology. The purpose of the methodology is to determine the current ecological condition of the structure and function of both the water basin and the local watersheds within those basins. Structure is the distribution and characteristics of the physical, biological, and chemical ecosystem components. Function is the results/outputs of the interaction of the physical, biological, and chemical (structural) components, including external factors of the ecosystem. The existing WRP basinwide plans and currently used assessment procedures and methodology will be used and relied upon until updated watershed needs and functional assessment methodologies are adopted by review teams that include NCDENR, NCDOT, USACE, USFWS, EPA, USFS, FHWA, and NCWRC. The methodology developed will be coordinated with and subject to concurrence by the signatory agencies.

1. As a first step, NCDENR will conduct a screening analysis of the 51 eight-digit cataloguing units (CU's) within North Carolina's 17 river basins in which substantial impacts to waters and wetlands from NCDOT projects are anticipated. The screening analysis will include, at a minimum, a multi-parameter evaluation of the status and potential needs for each of the following: water quality, aquatic and terrestrial habitat, and hydrologic functions. The screening analysis will be used to identify local watersheds, which are 14-digit cataloguing units, needing a more comprehensive assessment (targeted local watersheds) because of the watersheds' current condition and/or projected future impacts to it.

2. Second, the NCDENR will conduct a comprehensive Watershed Needs Assessment of targeted local watersheds whose current and potential conditions have been identified during the screening analysis. The Watershed Needs Assessment of targeted local watersheds will identify specific actions necessary to achieve desired local watershed goals. NCDENR will use the Watershed Needs Assessment information in conjunction with the

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watershed restoration plans and solutions for anticipated NCDOT transportation project impacts to determine the best location for either initiating or updating local watershed plans. NCDENR will also identify specific mitigation projects to address anticipated impacts from NCDOT projects identified in a 7-year projection of transportation impacts as part of local watershed plans.

C. NCDOT will provide NCDENR with an annual update of the 7-year projection of transportation impacts. When possible, the NCDOT will provide the type and location of anticipated impacts as part of those updates. NCDENR will confirm the type and quantity of existing and anticipated NCDOT project impacts within each eight-digit CU and identify potential mitigation needs.

D. NCDENR will identify mitigation sites within targeted local watersheds, intended to provide compensatory mitigation for NCDOT projects. The parties agree that mitigation projects within a targeted local watershed can reasonably be expected to provide appropriate compensation for impacts to wetlands and/or other aquatic resources within the eight-digit CU in which the targeted local watershed is located.

E. If NCDENR is unable to identify adequate compensatory mitigation opportunities within a particular targeted watershed for an eight-digit CU, where future NCDOT project impacts are anticipated, it will screen all local watersheds within the CU for mitigation opportunities. NCDENR will present to the Program Assessment and Consistency Group (Assessment Group) information concerning all potential mitigation projects within the targeted watersheds, as well as other local watersheds within the CU so that the Assessment Group may recommend appropriate mitigation projects.

F. If NCDENR is still unable to identify adequate compensatory mitigation opportunities, with or without receiving comments and recommendations from the Assessment Group, and the issuance of a Section 404 or Section 10 permit to NCDOT may jeopardize the letting schedule of a NCDOT project, NCDOT may propose to use alternate mitigation options, including, but not

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limited to, the existing NCDENR in-lieu-fee program, to satisfy the compensatory mitigation requirement.

### V. Funding of the EEP

NCDOT will fund the NCDENR EEP program, as described herein, by approving a biennial EEP budget, and, when appropriate, NCDOT will make payments into the Wetlands Restoration Fund, per NCGS 143-214.12 and 15A NCAC 2R .0400. NCDOT is committed, through this MOA, to using the EEP within NCDENR as the primary means by which NCDOT will acquire necessary compensatory mitigation to offset anticipated impacts from NCDOT projects. Accordingly, NCDOT and NCDENR agree to enter into a separate MOA detailing the funding mechanisms that will be necessary for EEP to operate an administrative staff responsible for the identification of watershed needs and mitigation opportunities associated with NCDOT project impacts as described herein.

NCDOT will provide the necessary funding to NCDENR to contract for the planning, acquisition, construction, long-term monitoring and management, and any necessary remediation of mitigation projects identified during the development of the watershed needs assessment, watershed restoration plans and local watershed plans. NCDOT agrees to fund a biennial budget of EEP based upon anticipated EEP administrative and capital expenditures, which will be annually reviewed. The biennial budget will be prepared by EEP within two months of receipt of the annual update of anticipated impacts as per paragraph IV C. NCDENR will provide a biennial work plan and its associated budget to NCDOT each year. After concurrence with the work plan, NCDOT will agree to fully fund the proposed budget. NCDENR will provide an annual budget summary to USACE. For every permit issued to NCDOT requiring use of the EEP to provide compensatory mitigation, NCDOT shall, within 30 days of permit issuance, either certify sufficient funds have been provided to complete the required mitigation, or make available to NCDENR any deficiency in such funds.

**VI. Compensatory Mitigation Requirements**

A. Mitigation Sites. Using funds provided by NCDOT for that purpose, NCDENR shall perform all planning, acquisition, construction, monitoring, remedial action, and preservation necessary to provide compensatory mitigation for impacts to waters and wetlands anticipated to be authorized by USACE permits. NCDENR shall complete such work within the time frames established in Section X of this agreement.

1. NCDENR shall prepare a site-specific mitigation plan for all proposed restoration, creation and enhancement compensatory mitigation projects, intended to provide compensatory mitigation requirements of Section 404 and Section 10 permits. Each such site specific mitigation plan shall be prepared in general compliance with the guidelines contained in Exhibit 1 of this document, if applicable, and shall include, but not be limited to, a pre-work description and ecological assessment of the mitigation site; identification of the goals and objectives of the mitigation plan, including a description of the specific aquatic functions to be created, restored, or enhanced; the assessment methodology to be used; a description of the work to be performed on the site; a site acquisition and construction schedule; annual performance criteria and final success criteria to determine the success of the mitigation work; a monitoring plan to evaluate the site at least annually until success criteria have been met, a plan for addressing potential remediation needs in the event the site does not meet annual performance or success criteria; and a plan for the preservation and long-term management of the site. All work on such compensatory mitigation projects shall be performed in accordance with the mitigation plan.

2. For each restoration, creation and enhancement compensatory mitigation site, the NCDENR shall prepare annual monitoring reports until success criteria have been met, and a final report showing a site has met the success criteria specified in the mitigation plan.

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3. For each preservation site acquired by the State of North Carolina through the EEP to satisfy mitigation requirements of Section 404 and Section 10 permits, prior to acquisition, NCDENR shall prepare a report generally describing the site. The report will describe for each site the ecological and watershed functions of the preservation site, and their importance to the region; demonstrable degradation threats; the long-term management plan; an explanation of the legal mechanisms to be used to preserve the site, including copies of any proposed real estate instruments; and a description of any easements or other encumbrances on the property. The State of North Carolina must have a sufficient interest in the proposed preservation property to ensure it is capable of preserving the property, or comply with the requirements of Section VIII below, prior to issuance of any permit utilizing said property as compensatory mitigation. All real estate instruments necessary to implement preservation of the property must be properly executed and recorded within 30 days of issuance of a permit requiring such preservation as a condition.

4. NCDENR shall provide a copy of each site-specific mitigation plan, annual monitoring report, final report, and preservation report to the USACE, NCDOT, and each member of the Assessment Group, within 30 days of completion of the document. This requirement may be satisfied, at NCDENR's election, by posting such report on an accessible website, with e-mail notification to each recipient that such report has been posted.

5. NCDENR shall develop and maintain a website accessible to the general public and shall timely post all site-specific mitigation plans and preservation reports on the website.

B. USACE Permit Decisions. The parties to this agreement recognize that permit decisions regarding the need for and appropriateness of compensatory mitigation are to be made by the USACE within the permit process required for each proposed NCDOT project. The

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parties anticipate that the successful implementation of the EEP program will result in well-planned, high quality mitigation projects, which address the needs of local watersheds, and which will be completed and functioning in advance of impacts authorized by USACE permits. The parties further anticipate that with the successful implementation of the EEP program, most USACE permit decisions on NCDOT projects requiring compensatory mitigation will require utilization of EEP mitigation to fill that compensatory mitigation need.

1. The USACE will evaluate the EEP program at least annually. That evaluation will focus on the consistency of the EEP strategy with USACE regulations and guidelines for compensatory mitigation. The USACE will provide, in writing to EEP and NCDOT, any appropriate recommendations resulting from that evaluation.

2. The USACE will make decisions concerning compensatory mitigation requirements for permits or authorizations issued to the NCDOT as part of its decision on the individual permit or general permit authorization for each proposed project, in compliance with all applicable USACE regulations, guidance and the § 404(b)(1) guidelines.

3. If the USACE determines that compensatory mitigation is appropriate and required to offset authorized impacts to waters and wetlands, it will first consider whether there are practicable compensatory mitigation opportunities on-site of the proposed project. If the USACE determines that on-site mitigation opportunities are both practicable and environmentally preferable to existing mitigation available through the EEP program, the permit will be conditioned to require such on-site mitigation.

4. If the USACE determines that on-site mitigation is either not practicable or not environmentally preferable, and that the EEP has appropriate off-site mitigation to offset the permitted impacts, the USACE will condition the permit to identify the amount, type, and watershed location of compensatory mitigation required to be provided through the EEP program. It is the intention of the parties to this agreement that ultimately, mitigation provided through the EEP program will be complete and functioning prior to

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issuance of any permit utilizing EEP for compensatory mitigation needs. Toward that end, all mitigation offered through the EEP pursuant to this agreement will comply with the performance schedule and timeline established in Section X, below, prior to issuance of any permit for which the mitigation is used to satisfy compensatory mitigation requirements.

5. For the purposes of this agreement, the following performance requirements must be met for any mitigation offered through EEP pursuant to this agreement:

a. For compensatory mitigation sites that are preservation only, the State of North Carolina has acquired a sufficient interest in the property to preserve the site in perpetuity, or to comply with the requirements of Section VIII, below, free and clear of all liens and encumbrances inconsistent with use of the site as compensatory mitigation and has prepared a long-term management plan. Within thirty days of issuance of the permit utilizing the preservation as mitigation, all steps necessary to permanently preserve the site in perpetuity must be completed, and the long-range management plan must be implemented.

b. With the exception of the EEP Transition Period, other compensatory mitigation sites (restoration, creation, and enhancement sites) must meet the performance requirements and timeline established in Section X below. In the event that a natural disaster prevents a mitigation project from meeting the time requirements established in Section X, the USACE may, in its discretion, modify the timeline.

6. If the EEP has no appropriate, completed mitigation projects that satisfy the anticipated compensatory mitigation requirements for any NCDOT project, or if the USACE has identified on-site mitigation opportunities through its permit process, NCDOT may propose to use alternate mitigation options including, but not limited to, the existing NCDENR in-lieu-fee program to satisfy the compensatory mitigation requirement.

7. At the time of issuance, the USACE will copy all permits or authorizations requiring utilization of the EEP program, issued to NCDOT to NCDENR EEP. Within 5 days of receipt of that permit, NCDENR will notify the USACE that NCDENR, and not the NCDOT, is responsible for providing the compensatory mitigation required by the permit, and will take all actions necessary to complete implementation of the compensatory mitigation required by such permit or authorization. Failure of EEP to accept responsibility for providing the required compensatory mitigation may result in modification, suspension or revocation of the issued permit or authorization.

## **VII. Program Review**

A. NCDENR will convene the Assessment Group, which will provide oversight and review of the EEP in accordance with the October 2000 Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation. In addition to NCDENR and USACE, State and Federal review agencies, including, but not limited to the Environmental Protection Agency, the US Fish & Wildlife Service, the National Marine Fisheries Service, the North Carolina Wildlife Resources Commission and appropriate NCDENR divisions will be invited to be members of the Assessment Group. Each member agency will be requested to appoint a representative from its agency to attend meetings, provide comments, and receive all notices of meetings and other relevant correspondence or material.

1. The principal purpose of the Assessment Group is to facilitate the implementation of the EEP to realize the goal of providing quality, functioning, up front compensatory mitigation for all NCDOT projects for which compensatory mitigation is required.

2. NCDENR shall convene a meeting of the Assessment Group at least quarterly. The USACE shall chair all meetings of the Assessment Group. NCDENR shall make the report described in Paragraph VII.B. (EEP Assessment Report) below available at least 30 days prior to the quarterly meeting.

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3. It is not required that the Assessment Group approve site-specific mitigation plans/reports, monitoring reports, determinations that a site has met performance or success criteria, or any NCDENR planning actions, as a condition of use of the EEP as outlined in this agreement. The parties to this agreement intend that the members of the Assessment Group will review such documents and mitigation sites as each considers necessary to provide meaningful input, and express any recommendations, concerns, or potential improvements concerning the implementation of the EEP to NCDENR. Comments on the use of EEP to provide compensatory mitigation for particular permits will be made during the permit process for each permit.

B. The NCDENR will provide a quarterly EEP Assessment Report to the USACE, NCDOT and members of the Assessment Group that includes the following information: 1) projected impacts by amount, type, and eight-digit CU based on the 7 year anticipated impacts; 2) mitigation sites acquired by amount, type, and eight-digit CU and implementation status; 3) mitigation projects that are complete and functioning, or are otherwise available for use pursuant to Paragraph VI.B.5, above, by amount, type, and eight-digit CU; 4) mitigation projects that were debited by USACE permit Action ID, amount, type, and eight-digit CU; 5) net remaining mitigation by amount, type, and eight-digit CU for each complete and functioning mitigation project. The USACE shall review the EEP Assessment Report, as well as any comments of the Assessment Group, to determine program compliance and identify any necessary course corrections. Failure of the NCDENR to make any corrections identified in writing by the USACE in a timely manner could result in immediate termination of the use of the program for Section 404 compensatory mitigation. Notice of termination by the USACE pursuant to this paragraph shall be in writing and provided to NCDENR and NCDOT.

C. This agreement is written in terms of measuring authorized impacts and compensatory mitigation in terms of acreage (wetlands) and linear feet (streams). It is the goal of the parties to this agreement to develop or accept a scientifically acceptable and practicable method of measuring authorized impacts on the basis of functions lost, and compensatory mitigation in terms

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of functions gained. When the parties have agreed upon such a method of functional assessment, after notice and opportunity for comment on such functional assessment method, permit conditions will be written, and compensatory mitigation provided, in terms of functional replacement units, which will be reflected on the accounting reports prepared and provided by EEP.

### **VIII. Protection of Mitigation Sites**

The EEP Transition and NCDENR will ensure that all mitigation sites that are used to satisfy compensatory mitigation requirements will remain within the public domain in fee simple title in perpetuity or that appropriate conservation easements in perpetuity, approved by the USACE, are placed on the sites and that sites will be managed in accordance with the long-term management plan included within the mitigation plan or report for the property. With approval by the USACE, NCDENR may transfer ownership or management responsibilities of mitigation site properties to appropriate non-profit conservation organizations, local governments, or land trusts for management and monitoring. In all cases, NCDENR will procure appropriate agreements to ensure that both public domain properties and other properties under conservation easements are maintained in perpetuity as viable compensatory mitigation sites serving the functions required by the permit.

### **IX. EEP Transition Period**

A. Transition Period: In order for a smooth transition from the current WRP and NCDOT mitigation operations and methods to EEP watershed based operations and methods, a Transition Period is to be established as part of this agreement. The Transition Period begins on the effective date of this Agreement and lasts for a period of two years (24 months). During the Transition Period, specific operational procedures will be followed for providing required compensatory mitigation for a select list of transportation projects. The purpose of the Transition Period is to allow sufficient time for aggressive planning to be completed by the EEP that will

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facilitate the development of advance compensatory mitigation. During the Transition Period, it is not required that mitigation be complete and functioning prior to permit issuance.

Only a select list of transportation projects, identified below as Exhibit 2, will be addressed by the Transition Period procedures. This list basically includes transportation projects expected to need permits within the 24 months following the execution of this agreement.

B. EEP Transition Fiscal Management: The Wetlands Restoration Fund, established as a special trust fund pursuant to NCGS 143-214.12, will provide a repository for payments to satisfy compensatory mitigation requirements.

The NCDOT will provide funds for the acquisition of all mitigation sites and pay for construction, monitoring, maintenance, and management of all mitigation projects that are used as compensatory mitigation for impacts associated with transportation projects that are authorized by Section 404 and Section 10 permits. The EEP Transition staff and planning operations will be funded by NCDOT.

### C. EEP Transition Operating Procedures (transition projects only)

1. During the Transition Period, the NCDENR EEP will provide all compensatory mitigation required by USACE permits for the NCDOT projects identified on Exhibit 2. It is anticipated that all issued permits during the transition period will require compensatory mitigation at a ratio requiring at least 1:1 restoration. High quality preservation and enhancement may be accepted to supplement the 1:1 restoration requirement, if such use is consistent with USACE guidance on mitigation.

2. In the first twelve months of the Transition Period, where acceptable to the USACE after consideration of any public and agency comments, the Transition EEP will use mitigation projects currently being implemented to address compensatory mitigation requirements. In the event no appropriate restoration mitigation is available to provide compensatory mitigation at a 1:1 ratio for project impacts, the Transition EEP will complete planning and begin construction on mitigation sites approved by the USACE,

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sufficient to meet required restoration acres no later than twenty four months after the execution of this agreement.

3. Potential preservation sites will be identified based on a specific list of criteria agreed to by the USACE. The intent of the list of criteria is to identify the highest quality preservation sites that should be pursued, and to ensure that proposed preservation sites meet the requirements of USACE guidance on mitigation.

### X. EEP Milestones

With the exception of NCDOT projects to be covered during the transition period, the NCDENR will comply with the following performance schedule and timeline prior to offering a mitigation site pursuant to this agreement to satisfy the compensatory mitigation requirements of any USACE permit. For the purpose of this Section, year 1 of this Agreement shall begin on the effective date of this Agreement.

A. NCDENR will use abbreviated basin plans and/or existing LWP's to plan and initiate mitigation projects for NCDOT projects scheduled to be permitted in year 3 of this agreement. For these mitigation projects, NCDNR will acquire and permanently preserve the mitigation property, complete the mitigation plan, and begin construction of the mitigation project prior to the end of year 3. Construction of these sites will be completed within one year of permit issuance for which the project serves as compensatory mitigation. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 9 of this agreement.

B. NCDENR will use abbreviated basin plans and/or existing LWP's to plan and initiate mitigation projects for NCDOT projects scheduled to be permitted in year 4 of this agreement. For these mitigation projects, NCDNR will acquire and permanently

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preserve the mitigation property, complete the mitigation plan, and begin construction of the mitigation project prior to the end of year 4. Construction of these sites will be completed within one year of permit issuance for which the project serves as compensatory mitigation. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 10 of this agreement.

C. NCDENR will use abbreviated basin plans and/or existing LWP's to plan and initiate mitigation projects for NCDOT projects scheduled to be permitted in year 5 of this agreement. For these mitigation projects, NCDNR will acquire and permanently preserve the mitigation property, complete the mitigation plan, and complete construction of the mitigation project prior to the end of year 5. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 10 of this agreement.

D. By the end of year 5 of this agreement, using LWPs, NCDENR will acquire and permanently preserve the mitigation properties, complete the mitigation plans, and complete construction of mitigation projects to address projected impacts for NCDOT projects scheduled to be permitted in years 6, 7, and 8. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 10 of this agreement.

E. By the end of year 6 of this agreement, using LWPs, NCDENR will acquire and permanently preserve the properties, complete the mitigation plans, and complete construction of mitigation projects to address projected impacts for NCDOT projects

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scheduled to be permitted in years 9, 10, and 11. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 11 of this agreement.

F. By the end of year 7 of this agreement, using LWPs, NCDENR will acquire and permanently preserve the properties, complete the mitigation plans, and complete construction of mitigation projects to address projected impacts for NCDOT projects scheduled to be permitted in years 12, 13, and 14. The initial five-year monitoring period will begin upon completion of construction and monitoring will continue until final success criteria have been achieved. All planning and implementation will be conducted with the goal of achieving final success criteria no later than the end of year 12 of this agreement.

G. Prior to use as mitigation for USACE permits, the mitigation projects referred to in paragraphs A through E of this Section shall meet all required annual performance criteria for each year of monitoring required to be performed prior to permit issuance.

H. For NCDOT projects scheduled to be permitted in all years subsequent to year 12, mitigation projects offered pursuant to this agreement shall be complete and functioning in order to be eligible for use as compensatory mitigation for USACE permits. Complete and functioning shall mean that construction of the project has been completed, the site has met all final success criteria described in the site-specific mitigation plan, and has been preserved in perpetuity.

### **XI. Open Communication and Cooperation**

The USACE, NCDENR, and NCDOT management acknowledge that it is their desire to facilitate the processes set forth in this agreement by open communication and cooperation. All

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parties agree to exercise their rights and obligations in good faith as contained in this agreement.

The parties further agree to ensure that formal continuous communication and outreach is established to ensure that parties affected by the EEP are apprised of the EEP's policies, methods, procedures, activities, and performance. The outreach includes, but is not limited to, continuous communication with:

- Regulatory review agencies (e.g. NCWRC, NMFS, EPA, USFWS)
- Interested agencies, organizations, and others (e.g. Legislature, Local Government, Natural Heritage, environmental groups, and general public)
- Supporting groups and organizations (e.g. NGO's, Mitigation Bankers, CWMTF)

### **XII. Amendment and Termination**

Amendments to this MOA may be made with mutual agreement in writing by the signature agencies. In addition to the right to terminate contained in Paragraph VII of this agreement, this MOA may be terminated by a signatory party by giving ninety (90) days written notice to the other parties. Within thirty (30) days of such written notice of termination by any party, or within thirty (30) days of written notice of termination by the USACE pursuant to paragraph VII.B., NCDENR shall provide an accounting of payments received in satisfaction of compensatory mitigation requirements and funds disbursed for implementation of compensatory mitigation requirements. Notwithstanding any termination of this agreement, the NCDENR shall complete all restoration, creation, enhancement or preservation activities, including any required remediation, necessary to satisfy the compensatory mitigation requirements of the Section 404 and Section 10 permits for which NCDENR is responsible. The completion of such compensatory mitigation shall be accomplished in accordance with the project implementation schedule included within the relevant mitigation plan.

### **XIII. Effect on Permitting**

## EEP Memorandum of Agreement Continued

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Nothing in this agreement shall abrogate or limit the regulatory decision authority of the USACE. NCDENR and its agencies routinely comment on permit applications made to USACE, and, in some cases, must issue or waive certifications or determinations prior to issuance of USACE permits. This agreement does not provide for NCDENR participation in the USACE decision to issue or deny a permit, or in the USACE decision concerning compensatory mitigation requirements for any issued permit, beyond that participation described above.

### XIV. Effective Date

The effective date of this Memorandum of Agreement is the date of the last signature below.

DATE:

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William G. Ross, Jr.  
Secretary  
NCDENR

DATE:

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Lyndo Tippet  
Secretary  
NCDOT

DATE:

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Charles R. Alexander, Jr.  
Colonel, US Army  
District Engineer, Wilmington

**EEP Memorandum of Agreement Continued**

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EXHIBIT 1

WRP Mitigation Plan General Compliance Guidelines

EXHIBIT 2

Limited List of NCDOT Transportation Projects Addressed by the EEP Transition

## EXHIBIT 1

### WRP MITIGATION PLAN GENERAL COMPLIANCE GUIDELINES

- I. Location Information.
  - A. Watershed by USGS Hydrologic Map Cataloging Unit Number.
  - B. County.
  - C. Stream name and classification.
  - D. Site identified on USGS Quad sheet or NWI map (7.5 minute) (with quad sheet name) and UTM coordinates of site.
  - E. Site identified on NRCS Soil Survey with appropriate Sheet Numbers.
  - F. Narrative description of location, including roads, nearest municipality, and general description of how to get to the site.
  - G. Location map with roads and nearest municipality (not larger than 11"=400').
  
- II. Project Description (should be stated in terms of goals and objectives).
  - A. Type of mitigation (restoration, creation, enhancement, preservation).
    1. Cowardin classification and/or stream type (cold water, cool water, or warm water).
    2. Narrative description of vegetation types to be established or existing.
    3. Use of a reference ecosystem in site planning and design and detailed description of that system.
  - B. Project Size.
    1. Overall site size.
    2. Acreage of each type of mitigation intended on the site.
    3. Acreage of each vegetation type (by Cowardin classification) intended on the site.
    4. Location map showing each mitigation type and vegetation type.

- C. Wetland and/or stream functions goals and objectives for establishment (if restoration or enhancement) or existing (if preservation).
  - 1. Description of how functions are determined or evaluated, methodologies used, etc. If modeling is used, assumptions, highs, lows, and averages should be included.
  - 2. Endangered species present or likely in the future or being impacted either positively or negatively.
  - 3. Description of existing (pre-mitigation project) functions and how the goals of the mitigation will contribute to desired functions and/or values.
- D. Vegetation.
  - 1. Pre-mitigation project description of vegetation of site with appropriate maps.
  - 2. Mitigation site vegetation goals and objectives.
- E. Wetland Hydrology
  - 1. Pre-mitigation project description of hydrology of site with appropriate maps.
  - 2. Mitigation site hydrology goals and objectives with appropriate maps.
- F. Soils.
  - 1. Pre-mitigation project description of soils of site with appropriate maps.
  - 2. Mitigation site soils goals and objectives with appropriate maps (if changes in the soils are being made).

### III. Site Preparation Plan.

- A. Orientation and scale maps (1"=50').
- B. Schematic drawing of proposed changes in topography (3" contours for finished grades). Grading plan.
- C. Location and elevation of all structures, especially those controlling hydrology.
- D. Construction details for all structures.

- E. Spot elevations for low points, high points, and structures. All target elevations and grades mapped.
- F. Construction timetable.
- G. Benchmark locations
- H. Limits of disturbance.
- I. Areas to be graded and backfilled (or filled). Description of earthwork moving required including amounts, type of soils moved and locations for borrow or relocation, sources of topsoils and the nature of these, grading, etc.
- J. Property boundaries.
- K. Specifications for deconsolidation of substrates.
- L. Stream/channel dimensions and configurations.
- M. Locations, sizes, nature, of existing or proposed buffers and map.
- N. On-site wetland boundaries, existing and after mitigation (proposed).
- O. Areas for stockpiling soils.
- P. Slope stabilization techniques.
- Q. Maintenance procedures for maintaining slopes, grades, etc.
- R. Other important site features and/or considerations.
- T. Habitat structures and locations.

IV. Vegetation Plans.

- A. Existing vegetation (description, species composition, relative abundance of dominants and subdominants, forest age, vegetation structure of uplands and wetlands).
- B. Vegetation structure to be restored, enhanced, and/or created (description, species composition, relative abundance of dominants and subdominants, and vegetation structure of uplands and wetlands) (including buffers).
- C. Planting/seedings should be listed to species. Propagules should be listed as to whether "local" (within 200 miles north and south), and should be verified by a

nursery certificate. Acceptable substitute species. Field collection instructions and techniques, if field collection is being used for sources. Plant material guarantees.

- D. If a Reference Ecosystem (RE) is used, the diversity and densities of species within the RE relative to the target for the mitigation site should be discussed.
  - E. Transitions zones between wetland and upland should be discussed with regards to suitable transition zone species and planting densities, and composition.
  - F. Sources of all plant materials, soils, fertilizers, habitat structures, etc.
  - G. Landscaping contractor's responsibilities (fertilization, irrigation or watering requirements, replacing plant mortalities, replanting seeded areas with transplants, temporarily protecting vegetation from wildlife, number of site inspections and frequencies.
  - H. Plant handling instructions, seeding instructions, and planting techniques.
  - I. Planting timetable.
  - J. Schematic drawing of proposed vegetation distribution, spacing, and structure.
  - K. Areas to be vegetated identified on topo plans by species and planting methods.
  - L. Criteria for acceptable plant material.
  - M. Special plant conditioning requirements (brackish/salt marsh species).
  - N. Details of proposals for slope stabilization by vegetation.
  - O. Exotic and/or nuisance plant control methods.
  - P. Vegetative buffer descriptions.
- V. Soils Plans.
- A. Soils description and mapping (taxonomy, texture, color structure, permeability, organic content, sampling map, etc.).
  - B. Schematic drawing of soils profile and spatial distribution.
  - C. Soil amendment details.
  - D. Sedimentation and erosion control plan.

- E. Fertility sampling (on mitigation site and RE if applicable) and discussion of fertility results relative to the needs and requirements of the plantings proposed.
- F. Discussion of appropriateness of soils for the target vegetation and wetland.
- G. If PC farmland is used for a site, a discussion of presence, impacts, and remedies for plow pans, field crowns, herbicide residues and carryover, and the drainage system imposed on the farmland.

VI. Hydrology Plans.

- A. A description (written and shown on plans) of the exiting water regime on the site, including water budget, sources, volume, velocity, duration and frequency of inundation and/or saturation, drainage area, seasonal highs and lows for each source, rating of each source as primary, secondary, etc., and average depths of surface and/or subsurface water.
- B. Steam gage/staff gage data and monitoring well data where flooding provides hydrologic input to the site.
- C. Field verification of hydrologic regime.
- D. Depth to water table and dates and methods of measurement with map showing locations of measurements.
- E. Duration of water table with 12 inches of the surface of the ground in consecutive days and dates and methods of measurement (including map showing variations across site).
- F. Map of stream channels, dimensions, and configuration.
- G. Modeling and assumptions, including highs, lows, and averages.
- H. Discussion of water budget regarding its appropriateness for the targeted wetland.
- I. Description, location, and plans of any water control structures and devices.

VII. Stream Plans-All plans for stream restoration shall be developed in accordance with Rosgen methodologies and/or in consultation with the N.C. Wildlife Resources Commission.

VIII. Monitoring Plan.

- A. Detailed description of success criteria for vegetation, soils, hydrology, and functions, including time-lines and targets to be met relative to the timeline. Include a discussion of why the success criteria are appropriate and will measure success.
- B. Detailed description of methods of measuring success criteria, including contractors and individuals and their qualifications for collecting data and performing monitoring measures.
- C. "As-built" report within 30 days of completion of the initial construction and planting.
- D. Observations and measurements of natural regeneration on the site as opposed to the constructed and planted conditions.
- E. Detailed description of monitoring schedule.
- F. Fauna monitoring methods and periods.
- G. Timetable for reporting monitoring results and to whom reports are made.

IX. Maintenance and Contingency Plans.

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
July-03	B-2639	3010103	Bridge Replacement Project
July-03	B-3045	3010103	Bridge Replacement Project
July-03	B-3217	3020106	Bridge Replacement Project
July-03	B-3462	3030002	Bridge Replacement Project
July-03	B-3468	3010107	Bridge Replacement Project
July-03	B-3600	3030002	Bridge Replacement Project
July-03	B-3633	3030003	Bridge Replacement Project
July-03	B-4696	6010203	Bridge Replacement Project
July-03	R-0617BA	3050101	NC-150, Lincoln County
July-03	R-2231A	3040201	Ellerbe Bypass
July-03	R-2231B	3040201	Ellerbe Bypass
July-03	R-2231CA	3040203	Ellerbe Bypass
July-03	R-2231CB	3040104	Ellerbe Bypass
July-03	U-2009B	3040105	Kannapolis Bypass, Cabarrus County
August-03	B-2980	3020102	Bridge Replacement Project
August-03	B-3116	3030005	Bridge Replacement Project
August-03	B-3259	3020201	Bridge Replacement Project
August-03	B-3314	3040101	Bridge Replacement Project
August-03	B-3319	3010104	Bridge Replacement Project
August-03	B-3334	3050102	Bridge Replacement Project
August-03	B-3414	6010105	Bridge Replacement Project
August-03	B-3461	3020203	Bridge Replacement Project
August-03	B-3466	3020102	Bridge Replacement Project
August-03	B-3479	3040102	Bridge Replacement Project
August-03	B-3485	6010202	Bridge Replacement Project
August-03	B-3500	3010104	Bridge Replacement Project
August-03	B-3601	3030002	Bridge Replacement Project
August-03	B-3645	3010102	Bridge Replacement Project
August-03	B-3837	3030002	Bridge Replacement Project
August-03	B-3884	3030001	Bridge Replacement Project
August-03	R-2625A	3050105	New Route, Cleveland County
September-03	B-3106	5050001	Bridge Replacement Project
September-03	B-3340	6010106	Bridge Replacement Project
September-03	B-3445	3010205	Bridge Replacement Project
September-03	B-3474	6010105	Bridge Replacement Project
September-03	B-3632	3030003	Bridge Replacement Project
September-03	B-3648	3030002	Bridge Replacement Project
September-03	B-3689	3030003	Bridge Replacement Project
September-03	R-2246C	3040105	Concord Bypass
September-03	R-2413C	3010103	NC-68, Guilford County
September-03	U-2524AB	3030003	Greensboro Western Loop, Guilford County
September-03	U-2524AC	3030003	Greensboro Western Loop, Guilford County
October-03	B-3451	3030002	Bridge Replacement Project
October-03	B-3602	3030002	Bridge Replacement Project
October-03	B-3622	3050102	Bridge Replacement Project
October-03	B-3687	3030003	Bridge Replacement Project
October-03	B-3702	3010102	Bridge Replacement Project
October-03	R-0967CB	3040105	NC-24/27, Stanley County
October-03	R-1014A	3020104	NC-32, Beaufort County

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
October-03	R-2000AA	3030002	Raleigh Outer Loop
October-03	R-2000AB	3020201	Raleigh Outer Loop
October-03	R-2000AC	3020201	Raleigh Outer Loop
October-03	R-2539B	3020204	NC-55, Pamlico County
October-03	R-2809B	3020201	Wake Forest Bypass (NC-98)
October-03	R-3100C	3050102	NC-16, Catawba County
October-03	U-2404A	3050101	Newton-Conover Loop, Catawba County
October-03	U-2404A	3050102	Newton-Conover Loop, Catawba County
October-03	U-2711B	3050105	SR 2241, Rutherford County
November-03	B-3157	3040103	Bridge Replacement Project
November-03	B-3449	3030007	Bridge Replacement Project
November-03	U-2911	3030004	SR 2685, Fayetteville
December-03	B-3352	6010202	Bridge Replacement Project
December-03	B-3669	3020201	Bridge Replacement Project
December-03	B-3686	3040103	Bridge Replacement Project
December-03	B-4334	3040101	Bridge Replacement Project
December-03	R-2911E	3040102	US-70, Iredell County
January-04	B-2963	3030002	Bridge Replacement Project
January-04	B-3482	3020201	Bridge Replacement Project
January-04	B-3521	3020201	Bridge Replacement Project
January-04	B-3621	3050102	Bridge Replacement Project
January-04	B-3627	3010104	Bridge Replacement Project
January-04	R-2911A	3040102	US-70, Iredell County
February-04	B-3067	5050001	Bridge Replacement Project
February-04	B-3424	3040105	Bridge Replacement Project
February-04	B-3464	3030002	Bridge Replacement Project
February-04	B-3490	6010106	Bridge Replacement Project
February-04	B-3491	6010105	Bridge Replacement Project
February-04	B-3605	5050001	Bridge Replacement Project
February-04	B-3620	3050102	Bridge Replacement Project
February-04	B-3626	3020106	Bridge Replacement Project
February-04	B-3650	3030002	Bridge Replacement Project
February-04	B-3659	6010106	Bridge Replacement Project
February-04	R-2206B	3050101	NC-16, Catawba County
February-04	R-2514A	3020106	Jacksonville Bypass (US-17)
February-04	R-2610A	3030003	US-421, Chatham County
February-04	R-2610B	3030003	US-421, Chatham County
February-04	R-2813C	6010105	NC-146, Buncombe County
February-04	U-0620	3030004	Hope Mills Bypass, Cumberland County
February-04	U-2527	3020101	Henderson Outer Loop, Vance County
March-04	B-3419	3050101	Bridge Replacement Project
March-04	B-3450	3030002	Bridge Replacement Project
March-04	B-3470	6010106	Bridge Replacement Project
March-04	B-3480	6010203	Bridge Replacement Project
March-04	B-3623	3040105	Bridge Replacement Project
March-04	B-3628	3010104	Bridge Replacement Project
March-04	B-3643	3020101	Bridge Replacement Project
March-04	B-3670	3020201	Bridge Replacement Project
March-04	B-3710	6010103	Bridge Replacement Project

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
March-04	B-3712	3020201	Bridge Replacement Project
March-04	B-3810	3020104	Bridge Replacement Project
March-04	B-3827	3050105	Bridge Replacement Project
April-04	B-2950	3010205	Bridge Replacement Project
April-04	B-3100	3040102	Bridge Replacement Project
April-04	B-3266	3040101	Bridge Replacement Project
April-04	B-3463	3030002	Bridge Replacement Project
April-04	B-3467	3020102	Bridge Replacement Project
April-04	B-3496	3030001	Bridge Replacement Project
April-04	B-3530	3020201	Bridge Replacement Project
April-04	B-3538	3020201	Bridge Replacement Project
April-04	B-3631	3010104	Bridge Replacement Project
April-04	B-3647	3030002	Bridge Replacement Project
April-04	B-3682,W-3413	3030001	Bridge Replacement Project
April-04	B-3690	3030003	Bridge Replacement Project
April-04	B-3709	6010103	Bridge Replacement Project
April-04	B-3918	3020201	Bridge Replacement Project
April-04	B-4014	5050001	Bridge Replacement Project
April-04	R-0977A	6020002	US-64, Cherokee County
April-04	R-3415	3040101	NC-67, Yadkin County
April-04	U-4026B	3030002	Davis Drive, Wake/Durham County
May-04	B-2905	5050001	Bridge Replacement Project
May-04	B-3350	3040102	Bridge Replacement Project
May-04	B-3376	3020201	Bridge Replacement Project
May-04	B-3475	6010105	Bridge Replacement Project
May-04	B-3607	5050001	Bridge Replacement Project
May-04	B-3614	6010105	Bridge Replacement Project
May-04	B-3630	3010104	Bridge Replacement Project
May-04	B-3711	3020202	Bridge Replacement Project
May-04	B-3808	6010108	Bridge Replacement Project
May-04	B-3858	3020105	Bridge Replacement Project
May-04	B-3865	3020201	Bridge Replacement Project
May-04	B-3871	3010107	Bridge Replacement Project
May-04	B-3896	3040203	Bridge Replacement Project
May-04	B-3914	6010105	Bridge Replacement Project
May-04	B-4010	5050001	Bridge Replacement Project
May-04	B-4096	3040103	Bridge Replacement Project
May-04	B-4139	3030006	Bridge Replacement Project
May-04	U-3613B	3020103	Fire Tower Road, Greenville
June-04	B-1381	3030006	Bridge Replacement Project
June-04	B-2965	3020103	Bridge Replacement Project
June-04	B-3119	6010105	Bridge Replacement Project
June-04	B-3348	3020105	Bridge Replacement Project
June-04	B-3349	3020105	Bridge Replacement Project
June-04	B-3454	3040101	Bridge Replacement Project
June-04	B-3528	3020201	Bridge Replacement Project
June-04	B-3612	3010107	Bridge Replacement Project
June-04	B-3625	3030001	Bridge Replacement Project
June-04	B-3646	3030002	Bridge Replacement Project

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
June-04	B-3649	3030002	Bridge Replacement Project
June-04	B-3651	3030002	Bridge Replacement Project
June-04	B-3662	6010105	Bridge Replacement Project
June-04	B-3703	3020201	Bridge Replacement Project
June-04	B-3704	3020201	Bridge Replacement Project
June-04	B-3705	3020201	Bridge Replacement Project
June-04	B-3853	3020102	Bridge Replacement Project
June-04	B-3872	3050101	Bridge Replacement Project
June-04	B-3885	3030002	Bridge Replacement Project
June-04	R-0617C	3050101	NC-150, Lincoln County
June-04	U-2734	3030001	Market Street, Wilmington
July-04	B-1443	6010108	Bridge Replacement Project
July-04	B-3115	3030005	Bridge Replacement Project
July-04	B-3126	3050101	Bridge Replacement Project
July-04	B-3373	3040204	Bridge Replacement Project
July-04	B-3453	3020102	Bridge Replacement Project
July-04	B-3613	3030006	Bridge Replacement Project
July-04	B-3639	3020103	Bridge Replacement Project
July-04	B-3644	3020201	Bridge Replacement Project
July-04	B-3665	6010105	Bridge Replacement Project
July-04	B-3714	3040101	Bridge Replacement Project
July-04	B-3840	3050101	Bridge Replacement Project
July-04	B-3875	3030003	Bridge Replacement Project
July-04	B-3876	3020101	Bridge Replacement Project
July-04	B-3879	3020101	Bridge Replacement Project
July-04	B-3926	5050001	Bridge Replacement Project
July-04	R-0513C	3040203	US-74, Robeson County
July-04	R-2206AA	3050101	NC-16, Catawba County
July-04	R-2417BB	3030004	Sanford Bypass (US-421)
July-04	U-2803	3020201	Smith Level Road, Carrboro
July-04	U-4008	3030002	US-15/501, Chapel Hill
August-04	B-2583	6010106	Bridge Replacement Project
August-04	B-2848	6010108	Bridge Replacement Project
August-04	B-3310	6010105	Bridge Replacement Project
August-04	B-3375	3020201	Bridge Replacement Project
August-04	B-3504	3040103	Bridge Replacement Project
August-04	B-3616	6010105	Bridge Replacement Project
August-04	B-3652	3030003	Bridge Replacement Project
August-04	B-3707	3020102	Bridge Replacement Project
August-04	B-3822	3050101	Bridge Replacement Project
August-04	B-3824	3030002	Bridge Replacement Project
August-04	B-3873	3050101	Bridge Replacement Project
August-04	B-3908	3040105	Bridge Replacement Project
August-04	B-4273	3040204	Bridge Replacement Project
August-04	R-2206C	3050101	NC-16, Catawba County
August-04	U-3101C	3020201	US-1, Cary
September-04	B-1019	3040104	Bridge Replacement Project
September-04	B-3346	3050105	Bridge Replacement Project
September-04	B-3403	5050001	Bridge Replacement Project

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
September-04	B-3506	3030003	Bridge Replacement Project
September-04	B-3629	3010104	Bridge Replacement Project
September-04	B-3636	3010203	Bridge Replacement Project
September-04	B-3664	6010105	Bridge Replacement Project
September-04	B-3685	3020103	Bridge Replacement Project
September-04	B-3695	3010103	Bridge Replacement Project
September-04	B-3828	3050105	Bridge Replacement Project
September-04	B-4222	3010205	Bridge Replacement Project
September-04	B-4270	3030006	Bridge Replacement Project
September-04	B-4320	3030007	Bridge Replacement Project
September-04	R-2824	3050101	US-401, Wake County
September-04	U-3837	3040101	Bridge over I-40, Winston-Salem
September-04	U-4009	3030002	Service Road, Durham
September-04	U-4012	3030002	US-15/501, Durham
October-04	B-3696	3010104	Bridge Replacement Project
October-04	B-3852	3030002	Bridge Replacement Project
October-04	B-3868	6010202	Bridge Replacement Project
October-04	B-4093	3030004	Bridge Replacement Project
October-04	B-4280	3010103	Bridge Replacement Project
October-04	F-3302	3010205	Ferry Project
October-04	R-0513A	3040203	US-74, Robeson County
October-04	R-2552AA	3020201	Clayton Bypass (US-70)
October-04	R-2552AB	3020201	Clayton Bypass (US-70)
October-04	R-2552B	3020201	Clayton Bypass (US-70)
October-04	R-2911D	3040102	US-70, Iredell County
October-04	R-3303	3040201	NC-73, Richmond County
October-04	R-3427	3040101	US-601, Yadkin County
October-04	U-2156F,U-2912	3030004	Owen Drive Extension, Cumberland County
October-04	U-2717	3030003	SR 1113, Guilford County
October-04	U-2913B	3030004	Guilford College Road, Greensboro
October-04	U-3311B	3030004	Bingham Drive, Fayetteville
October-04	U-3823	3020203	Wilson Christian Road, Wilson
November-04	B-3667	6010203	Bridge Replacement Project
November-04	B-3672	3020201	Bridge Replacement Project
November-04	B-3818	3050101	Bridge Replacement Project
November-04	B-3856	6010105	Bridge Replacement Project
November-04	B-3901	3010103	Bridge Replacement Project
November-04	B-4009	3040104	Bridge Replacement Project
November-04	B-4057	3010104	Bridge Replacement Project
November-04	B-4058	3010104	Bridge Replacement Project
November-04	B-4180	6010202	Bridge Replacement Project
November-04	B-4253	3010103	Bridge Replacement Project
November-04	B-4515	3020101	Bridge Replacement Project
December-04	B-3654	3030006	Bridge Replacement Project
December-04	B-3663	6010105	Bridge Replacement Project
December-04	B-3830	3040206	Bridge Replacement Project
December-04	B-3834	3040103	Bridge Replacement Project
December-04	B-3835	3040103	Bridge Replacement Project
December-04	B-3877	3020203	Bridge Replacement Project

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
December-04	B-3899	3030002	Bridge Replacement Project
December-04	B-3916	3020201	Bridge Replacement Project
December-04	B-3922	6010103	Bridge Replacement Project
December-04	B-4095	3040103	Bridge Replacement Project
December-04	B-4134	3020102	Bridge Replacement Project
December-04	B-4268	3030006	Bridge Replacement Project
December-04	B-4276	3040105	Bridge Replacement Project
December-04	U-2550B	3050101	NC-18, Burke County
January-05	B-0682	3040207	Bridge Replacement Project
January-05	B-3377/B-3062	6010103	Bridge Replacement Project
January-05	B-3522	3020201	Bridge Replacement Project
January-05	B-3640	3010203	Bridge Replacement Project
January-05	B-3666	3050105	Bridge Replacement Project
January-05	B-3694	3010103	Bridge Replacement Project
January-05	B-3700	3040105	Bridge Replacement Project
January-05	B-3854	6010106	Bridge Replacement Project
January-05	B-3857	6010105	Bridge Replacement Project
January-05	B-4007	5050001	Bridge Replacement Project
January-05	B-4205	3040103	Bridge Replacement Project
January-05	B-4299	3020201	Bridge Replacement Project
January-05	R-2562C	3030005	NC-87, Cumberland County
January-05	U-3344A	3020201	Airport Boulevard, Wake County
February-05	B-3481	3020201	Bridge Replacement Project
February-05	B-3635	6020002	Bridge Replacement Project
February-05	B-3861	6010203	Bridge Replacement Project
February-05	B-3906	3030006	Bridge Replacement Project
February-05	B-3909	3040105	Bridge Replacement Project
February-05	B-3917	3020201	Bridge Replacement Project
February-05	B-3928	5050001	Bridge Replacement Project
February-05	I-2808	3040101	I-77 Maintenance
March-05	B-3337	3030002	Bridge Replacement Project
April-05	B-3684	3020103	Bridge Replacement Project
April-05	B-3805	5050001	Bridge Replacement Project
April-05	B-3809	3020104	Bridge Replacement Project
April-05	B-3814	3050101	Bridge Replacement Project
April-05	B-3839	3040101	Bridge Replacement Project
April-05	B-3866	3020203	Bridge Replacement Project
April-05	B-4037	6010105	Bridge Replacement Project
April-05	B-4045	3050102	Bridge Replacement Project
April-05	B-4065	3030003	Bridge Replacement Project
April-05	B-4116	3050102	Bridge Replacement Project
April-05	B-4126	3020203	Bridge Replacement Project
April-05	B-4144	6010106	Bridge Replacement Project
April-05	B-4183	6010106	Bridge Replacement Project
April-05	B-4197	3050101	Bridge Replacement Project
April-05	B-4198	3050101	Bridge Replacement Project
April-05	B-4199	3050105	Bridge Replacement Project
April-05	B-4261	3050105	Bridge Replacement Project
April-05	B-4288	6010105	Bridge Replacement Project

EXHIBIT 2  
PROJECTS ADDRESSED BY TRANSITION

**TIP Project List for July, 2003 - June, 2005**

LET DATE	TIP NUMBER	CATALOGING UNIT	PROJECT DESCRIPTION
April-05	B-4290	6010105	Bridge Replacement Project
April-05	R-2301A	3020204	New Bern Bypass (US-17)
April-05	X-0002B	3030004	Fayetteville Outer Loop
April-05	X-0002C	3030004	Fayetteville Outer Loop
May-05	B-1303	3010107	Bridge Replacement Project
May-05	B-3343	6010106	Bridge Replacement Project
May-05	B-3509	3010103	Bridge Replacement Project
May-05	B-3677	3050103	Bridge Replacement Project
May-05	B-3701	6010203	Bridge Replacement Project
May-05	B-3706	3020102	Bridge Replacement Project
May-05	B-3826	6020002	Bridge Replacement Project
May-05	B-3869	6010106	Bridge Replacement Project
May-05	B-4033	6010105	Bridge Replacement Project
May-05	B-4036	6010105	Bridge Replacement Project
May-05	B-4047	3050101	Bridge Replacement Project
May-05	B-4059	3050102	Bridge Replacement Project
May-05	B-4113	3020101	Bridge Replacement Project
May-05	B-4127	3020203	Bridge Replacement Project
May-05	B-4178	3050101	Bridge Replacement Project
May-05	B-4187	3010107	Bridge Replacement Project
May-05	B-4227	3010205	Bridge Replacement Project
May-05	B-4259	3050105	Bridge Replacement Project
May-05	B-4265	3050105	Bridge Replacement Project
May-05	B-4285	3040101	Bridge Replacement Project
May-05	B-4291	6010105	Bridge Replacement Project
May-05	B-4316	5050001	Bridge Replacement Project
May-05	R-2408A	6010202	NC-28, Macon County
May-05	R-2414A	3010205	US-158, Camden County
May-05	R-2813B	6010105	NC-146, Buncombe County
May-05	R-2911C	3040102	US-70, Iredell County
May-05	U-2551	3050101	SR 1922, Burke County
June-05	B-4016	5050001	Bridge Replacement Project
June-05	B-4040	3050101	Bridge Replacement Project
June-05	B-4070	6020002	Bridge Replacement Project
June-05	B-4110	3020201	Bridge Replacement Project
June-05	B-4111	3020103	Bridge Replacement Project
June-05	B-4171	3030004	Bridge Replacement Project
June-05	B-4317	6010103	Bridge Replacement Project
June-05	B-4327	3020203	Bridge Replacement Project
June-05	I-4043B	3040102	I-40 Weigh Stations
June-05	I-4046B	3040203	I-95 Weigh Stations
June-05	R-0967CC	3040105	NC-24/27, Stanley County
June-05	R-2539C	3020105	NC-55, Pamlico County
June-05	R-2814A	3020101	US-401, Wake County
June-05	R-4071	3020201	Keen Road, Johnston County
June-05	U-3601	6010105	NC-191, Buncombe County