

## **APPENDIX B – AGENCY CORRESPONDENCE**

**APPENDIX B1 – Section 106 Documentation**

**APPENDIX B2 – Section 4(f) Documentation**

**APPENDIX B3 – U.S. Fish and Wildlife Service Documentation**

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**APPENDIX B5 – Mecklenburg County Land Use and Environmental Services Agency  
Air Quality Division Documentation**

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**APPENDIX B1 – Section 106 Documentation**

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U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION IV  
Alabama, Florida, Georgia,  
Kentucky, Mississippi,  
North Carolina, Puerto  
Rico, South Carolina,  
Tennessee

61 Forsyth Street, S.W.  
Suite 17T50  
Atlanta, GA 30303-8917  
404-562-3500  
404-562-3505 (fax)

March 4, 2005

Ms. Renee Gledhill Earley  
State Historic Preservation Office  
Division of Archives and History  
4617 Mail Service Center  
Raleigh, NC 27699-4617

Dear Ms. Earley:


This letter is to notify you of the Federal Transit Administration (FTA) determination that a number of corridors in Charlotte are currently under evaluation by the Charlotte Area Transit System (CATS) for major transit investments, and will be Federal undertakings if FTA provides financial assistance. As such, the projects are subject to Section 106 of the National Historic Preservation Act of 1966, as amended, and associated implementing regulations 36 CFR 800. These corridors are as follows:

- North Corridor
- Northeast Corridor
- Southeast Corridor
- West Corridor
- Center City Streetcar Corridor

Per Subpart A, Section 800.2(a)(3) and 800.2(c)(4) of these regulations, FTA is authorizing CATS, as an applicant for Federal assistance, to prepare information, analyses, and recommendations regarding Section 106 consultation for these projects. The delegated authority to initiate consultation does not extend to making determinations, such as the area of potential effects or consulting parties.

Thank you in advance for your assistance on this project. Please contact Alex McNeil of the FTA Regional Office on (404) 562-3511 with any questions. A CATS representative will be contacting your office as the project proceeds.

Sincerely,



Hiram J. Walker  
Regional Administrator

cc: John Muth, Deputy Director, CATS



November 7, 2008

Renee Gledhill-Earley  
Environmental Review Coordinator  
NC State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699-4617

RE: Charlotte Area Transit System, LYNX Blue Line Extension Light Rail Project, Northeast Corridor, Charlotte, Mecklenburg County, **ER 06-1957**  
Phase II Historic Architectural Resources Survey Report

Dear Ms. Gledhill-Earley:

In accordance with the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR Part 800, as published in the Federal Register on December 12, 2000, the Federal Transit Administration and the Charlotte Area Transit System seek Section 106 Consultation comments for the CATS LYNX Blue Line Extension Light Rail Project in Charlotte/Mecklenburg County, North Carolina.

The enclosed documentation is the result of the Phase II Historical Architectural Resources Survey Report that was undertaken in compliance with Section 106 of the National Historic Preservation Act of 1966. This survey was undertaken to identify resources listed in or eligible for listing in the National Register of Historic Places that may be affected by the proposed project. The survey included all resources within the defined Area of Potential Effects/Historic Architectural Resources that was discussed in our coordination meeting on September 11, 2008.

The Phase II Historical Architectural Resources Survey Report was prepared by Frances Alexander and Richard Mattson of Mattson, Alexander and Associates, Inc., a Charlotte-based cultural resource firm.

The Charlotte Area Transit System (CATS) is in the process of preparing a Draft Environmental Impact Statement for the LYNX Blue Line Light Rail Extension Project and would like to include your consultation comments on Eligibility in the DEIS. Therefore, we seek consultation comments within the 30-day provision cited in 800.3(c) of the revised regulations.

Continued ...



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600 East Fourth Street  
Charlotte, NC 28202  
PH: 704-336-6917  
FAX: 704-353-0797

Thank you in advance for your assistance on this project. Please send your responses back to me at: Charlotte Area Transit System, 400 East Trade Street, Charlotte, NC 28202. I may be reached at (704) 336-3513 if you have any questions regarding the project. We look forward to continuing our coordination with you on this project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kelly Goforth".

Kelly Goforth  
Assistant Project Manager

Cc: Keith Melton, FTA Region IV  
John Muth, Deputy Director, CATS  
Danny Rogers, Senior Project Manager, CATS



**North Carolina Department of Cultural Resources  
State Historic Preservation Office**

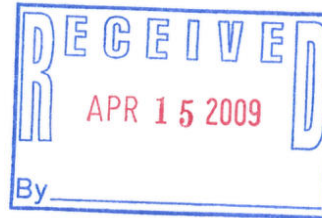
Peter B. Sandbeck, Administrator

Beverly Eaves Perdue, Governor  
Linda A. Carlisle, Secretary  
Jeffrey J. Crow, Deputy Secretary

Office of Archives and History  
Division of Historical Resources  
David Brook, Director

April 8, 2009

Kelly Goforth  
Charlotte Area Transit System  
600 East Fourth Street  
Charlotte, NC 28202



Re: Archaeological Survey of the Proposed LYNX Blue Line Extension, Charlotte Area Transit System, Mecklenburg County, ER 06-1957

Dear Ms. Goforth:

Thank you for your letter of March 25, 2009, transmitting the archaeological survey report by Dennis Gosser of Coastal Carolina Research, Inc. for the above project. We have reviewed the report and offer the following comments.

During the course of the survey, no Native American or historic period archaeological sites were located within the area of potential effect (APE). One site, 31MK1075\*\* was recorded within a proposed station location that has since been eliminated from the project and will not be affected. Due to the absence of cultural resources, Mr. Gosser has recommended that no further archaeological investigation be conducted in connection with this project. We concur with this recommendation since the project will not involve significant archaeological resources.

The report meets our office's guidelines and those of the Secretary of the Interior.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, please contact Renee Gledhill-Earley, environmental review coordinator, at 919/807-6579. In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,

Peter Sandbeck

cc: Loretta Lautzenheiser, Coastal Carolina Research, Inc.





September 21, 2009

ER 06-1957

Ms. Renee Gledhill-Earley  
Environmental Review Coordinator  
NC State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699-4617



RE: Determinations of Effects, Proposed LYNX Blue Line Extension, Northeast Corridor Light Rail Project, Charlotte Area Transit System (CATS), Charlotte, Mecklenburg County, ER # 06-1957

Dear Ms. Gledhill-Earley:

Thank you for meeting with our team to discuss the September 4, 2009 Evaluation of Effects Report prepared by Mattson Alexander and Associates for the LYNX Blue Line Extension Northeast Corridor Light Rail Project. As summarized from our meeting of September 15, 2009, the effects for the LYNX Blue Line Extension were determined to be:

Light Rail Alternative:

Phillip Carey Company Warehouse – No Effect  
McNeil Paper Company Warehouse Complex – No Effect  
Orient Manufacturing Company/Chadwick-Hoskins No. 3 – No Adverse Effect  
Chadbourn Hosiery Mills – No Effect  
North Charlotte Historic District – No Adverse Effect  
Herrin Brothers Coal and Ice Company Complex – No Adverse Effect  
Standard Chemical Products Plant – No Adverse Effect  
Republic Steel Corporation Plant – No Effect  
General Motors Training Facility – No Adverse Effect

Light Rail Alternative - Sugar Creek Design Option:

Standard Chemical Products Plant – No Effect  
Republic Steel Corporation Plant – No Adverse Effect  
General Motors Training Facility – No Effect

continued . . .



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Page 2  
Renee Gledhill-Earley  
September 21, 2009

In accordance with Section 106 and NEPA, these results will be reported in the Draft EIS anticipated to be released for public and agency comments next spring. We appreciate the opportunity to consult with you on the effects of our project on historic resources and look forward to receiving your concurrence on the line below identifying your agreement with the determinations documented on the first page of this letter.


Please feel free to contact me at (704) 336-3513 with any questions.

Sincerely,



Kelly Goforth  
Assistant Project Manager

Concurrence:

 10.1.09  
Renee Gledhill-Earley                      Date

c: Keith Melton, FTA Region IV  
John Muth, Interim CEO, CATS  
Danny Rogers, Senior Project Manager, CATS



December 28, 2009

ER 06-1957

Ms. Renee Gledhill-Earley  
Environmental Review Coordinator  
NC State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699

H-

Due 1/19/10

RE: Historic Evaluation of Effects Report Addendum, Sugar Creek Park-and-Ride Option 2, Proposed LYNX Blue Line Extension, Charlotte Area Transit System (CATS), Charlotte, Mecklenburg County, ER # 06-1957

Dear Ms. Gledhill-Earley:

Enclosed please find two copies of the above referenced report addendum for your review in accordance with Section 106 of the National Historic Preservation Act. In October, your office provided a review of the proposed LYNX Blue Line Extension. Since that time, an additional location option for a proposed park-and-ride garage has been added to the project and is referenced as the "Sugar Creek Park-and-Ride Option 2." The enclosed report provides information to document that "no effect" would occur at the newly proposed location.

We would like to request your review and concurrence on this project change. If you concur, please sign on the concurrence line provided below and return this letter. Thank you in advance for your assistance on this project. Please feel free to contact me at (704) 336-3513 with any questions.

Sincerely,

Kelly R. Goforth  
Project Development Manager

Concurrence: *of No Effect for Option 2*

  
Renee Gledhill-Earley

1.11.2010  
Date

c: Keith Melton, FTA, Region IV  
John Muth, Interim CEO, CATS (w/o report)  
Danny Rogers, Senior Project Manager, CATS (w/o report)



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**North Carolina Department of Cultural Resources  
State Historic Preservation Office**

Peter B. Sandbeck, Administrator

Beverly Eaves Perdue, Governor  
Linda A. Carlisle, Secretary  
Jeffrey J. Crow, Deputy Secretary

Office of Archives and History  
Division of Historical Resources  
David Brook, Director

January 25, 2010

Kelly Goforth  
Charlotte Area Transit System  
600 East Fourth Street  
Charlotte, NC 28202



Re: Archaeological Survey Addendum of the Proposed LYNX Blue Line Extension, CATS,  
Mecklenburg County, ER 06-1957

Dear Ms. Goforth:

Thank you for your letter of January 5, 2010, transmitting the archaeological survey report by the staff of Coastal Carolina Research, Inc. for the above project.

During the course of the survey, no Native American or historic period archaeological sites were located within the project area. Due to the absence of archaeological resources, Mr. Gosser has recommended that no further archaeological investigation be conducted in connection with this project. We concur with this recommendation since the project will not involve significant archaeological resources.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, please contact Renee Gledhill-Earley, environmental review coordinator, at 919/807-6579. In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,

Peter Sandbeck

cc: Loretta Lautzenheiser, Coastal Carolina Research, Inc.

**APPENDIX B2 – Section 4(f) Documentation**

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January 11, 2010

Mr. James Garges, Director  
Mecklenburg County Park and Recreation Department  
5841 Brookshire Boulevard  
Charlotte, NC 28216-2403

**RE: CATS LYNX Blue Line Extension, Northeast Corridor Light Rail Project**

Dear Mr. Garges:

The Federal Transit Administration (FTA) and the Charlotte Area Transit System (CATS) are currently planning the 10.6 mile extension of the existing LYNX Blue Line light rail service to the Northeast Corridor. The project is proposed to be constructed with local, state, and federal funding. As such, an Environmental Impact Statement (EIS), in accordance with the National Environmental Policy Act, is in the process of being developed that will document the potential for impacts to publicly-owned parklands, recreation facilities, greenway trails, and wildlife and waterfowl refuges. The project's impacts are also evaluated pursuant to Section 4(f), a provision of federal transportation law at Title 49, USC 303 that affords certain protections to public parks, historic sites, and wildlife refuges.

On 3/30/09, a draft EIS section on parklands was provided for your department's review and comments were addressed accordingly (final revision attached). A coordination meeting was held with Park and Recreation Department staff and CATS representatives in July 2009 to discuss the project and the potential short and long-term effects of the project. This input was used to arrive at a *de minimis* finding and is consistent with the regulations as set forth in Section 6009 of SAFETEA-LU.

After careful review of the resources within the study area and the potential impacts and consultation with your Department, CATS has determined that the project would result in no impact to nine park resources and a *de minimis*, or minimal, impact on three of these resources.

*De minimis* impacts would be expected to occur at:

- The Kirk Farm Fields wetland viewing area. The light rail alignment and Mallard Creek station platform would be located adjacent to this resource. No permanent or temporary use of park property is planned. A short-term visual impact would be anticipated to



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occur as the station platforms and canopies would be visible from the boardwalk until the existing vegetation within the wetland area reach sufficient height to block the view. Mitigation to provide a vegetative screen is not feasible as this could alter the wetland vegetation planted in this area. A potential moderate impact (.5 decibel into the impact criteria range during a general assessment) from light rail operations has also been identified. In consultations over the past year, Park and Recreation staff indicated that the noise impact on the activities, features and attributes of the viewing area would be minor, and the visual impact would be relieved by the continued growth of the planted wetland species.

- The planned Toby Creek Greenway where the light rail would pass over this trail on a bridge structure would require temporary closure of the trail for short periods of time for certain construction activities, if this trail is constructed prior to the light rail project. CATS will notify Mecklenburg County Park and Recreation at least 48 hours in advance as to when the greenway will be temporarily closed, and CATS will work closely with Park and Recreation to communicate the closings to greenway users.
- The planned Mallard Creek Greenway Extension where the light rail would pass over this trail on a bridge structure would require temporary closure of the trail for short periods of time for certain construction activities, if this trail is constructed prior to the light rail project. CATS will notify Mecklenburg County Park and Recreation at least 48 hours in advance as to when the greenway will be temporarily closed, and CATS will work closely with Park and Recreation to communicate the closings to greenway users.

CATS is seeking your concurrence with these findings for inclusion in the Draft EIS. Following the release and public review of the Draft EIS, your concurrence will permit FTA to conclude its Section 4(f) responsibility, with respect to these resources, with a determination that the project will have *de minimis* impacts on the resources. If you concur, please sign and date this letter in the space below and return a copy.

We appreciate your Department's participation in the planning process. If you have any questions or concerns, please contact me at (704) 336-3513 or [kgoforth@charlottenc.gov](mailto:kgoforth@charlottenc.gov).

Sincerely,



Kelly R. Goforth  
Project Development Manager  
LYNX Blue Line Extension Light Rail Project

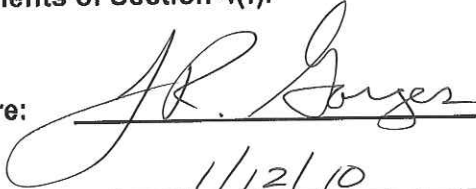
C: Keith Melton, FTA Region IV  
Danny Rogers, CATS

Transmitted via e-mail on January 11, 2010



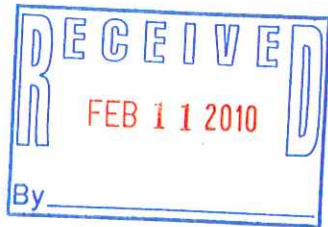
As the official with jurisdiction over the referenced park resources, I concur that the proposed LYNX Blue Line Extension project, as described in this letter, will not adversely affect the activities, features, and attributes of the Kirk Farm Fields Wetland Viewing Area, the planned Toby Creek Greenway and the planned Mallard Creek Greenway Extension. I have also been informed that, based on my concurrence, the FTA intends to make a *de minimis* finding regarding impacts to these resources, thus satisfying the requirements of Section 4(f).

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

11/21/10



January 28, 2010

ER 06-1957  
H. Pyle 2/3/10

Ms. Renee Gledhill-Earley  
Environmental Review Coordinator  
NC State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699

Due 2/17/10

RE: Proposed LYNX Blue Line Extension, Charlotte Area Transit System (CATS), Charlotte, Mecklenburg County, ER # 06-1957

Dear Ms. Gledhill-Earley:

The Federal Transit Administration (FTA) and the Charlotte Area Transit System (CATS) are currently planning the 10.6 mile extension of the existing LYNX Blue Line light rail service to the Northeast Corridor. The project is proposed to be constructed with local, state, and federal funding. As such, an Environmental Impact Statement (EIS), in accordance with the National Environmental Policy Act, is in the process of being developed that will document the potential for impacts to historic resources. The project's impacts are also evaluated pursuant to Section 106 and Section 4(f), a provision of federal transportation law at Title 49, USC 303 that affords certain protections to public parks, historic sites, and wildlife refuges.

Pursuant to the requirements of Section 106 of the National Historic Preservation Act, on 10/1/2009, you concurred with the determinations of No Effect and No Adverse Effect by the LYNX Blue Line Extension Light Rail Project on historic resources. In addition, on 1/11/2010, you concurred with the No Effect determination for a second park and ride option for the Sugar Creek station.

Based on your No Adverse Effect determinations on these properties, *de minimis* impacts are expected for the following resources:

- **Orient Manufacturing Company/Chadwick Hoskins No. 3 (NR Listed)** – The historic boundary for this property extends into the existing railroad right-of-way, owned by the City of Charlotte. The light rail tracks would be constructed within the existing right-of-way. Temporary use of the property during construction may occur. The uses would not alter the characteristics for which this resource is listed on the National Register.
- **North Charlotte Historic District (NR Listed)** – The existing North Carolina Railroad right-of-way lies within the historic district boundary. The light rail tracks would be added at the location of the existing freight tracks and the freight tracks would be shifted within the existing right-of-way to the north. Temporary use of property during construction would occur due to the grade separation of 36th Street. The uses, permanent and

Continued next page. . .



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temporary, would not alter the characteristics for which this resource is listed on the National Register.

- **Herrin Brothers Coal and Ice Company Plant (NR Eligible)** – The historic boundary for this property extends into the existing North Carolina Railroad right-of-way. The relocated freight tracks would be located within the existing railroad right-of-way. A temporary construction easement would also be required. The uses would not demolish any structures and would not alter the characteristics which make it eligible for the National Register.
- **Standard Chemical Products Plant (NR Eligible)** – Permanent acquisition of minor amounts of property for sidewalks and landscaping. Temporary use of property during construction. The uses would not demolish any structures and would not alter the characteristics which make it eligible for the National Register.
- **Republic Steel Corporation Plant (NR Eligible) (Light Rail Alternative - Sugar Creek Design Option only)** – Permanent acquisition of property for alignment would bisect areas used for storage. Temporary use of property during construction. No demolition of contributing resources or buildings. Access to the site would not be restricted by the project, except during construction. The uses would not demolish any structures and would not alter the characteristics which make it eligible for the National Register.
- **General Motors Corporation Training Plant (NR Eligible)** - Permanent acquisition of minor amounts of property. Temporary use of property during construction. The uses would not demolish any structures and would not alter the characteristics which make it eligible for the National Register.

CATS is seeking your concurrence with these findings for inclusion in the Draft EIS. Following the release and public review of the Draft EIS, your concurrence will permit FTA to conclude its Section 4(f) responsibility, with respect to these resources, with a determination that the project will have *de minimis* impacts on these resources. If you concur, please sign and date this letter in the spaces below and return a copy.

We appreciate your review and consideration. If you have any questions or concerns, please contact me at (704) 336-3513 or [kgoforth@charlottenc.gov](mailto:kgoforth@charlottenc.gov).

Sincerely,



Kelly R. Goforth  
Project Development Manager  
LYNX Blue Line Extension Light Rail Project

C: Keith Melton, FTA Region IV  
Danny Rogers, CATS

**As the official with jurisdiction over the referenced historic resources, in accordance with Section 106 of the National Historic Preservation Act, I concur that the proposed**

LYNX Blue Line Extension project, as described in this letter, will not adversely affect the activities, features, and attributes of the Orient Manufacturing Company/Chadwick Hoskins No. 3 (NR-Listed), North Charlotte Historic District, Herrin Brothers Coal and Ice Company Plant, Standard Chemical Products Plant, Republic Steel Corporation Plant (Light Rail Alternative - Sugar Creek Design Option only), and the General Motors Corporation Training Plant. I have also been informed that, based on my concurrence in the Section 106 determination, the FTA intends to make a *de minimis* finding regarding impacts to these resources, thus satisfying the requirements of Section 4(f).

Signature: Renee Gledhill-Earley  
Renee Gledhill-Early  
NC State Historic Preservation Office

Date: 2/3/10

**APPENDIX B3 – U.S. Fish and Wildlife Service Documentation**

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## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Asheville Field Office  
160 Zillicoa Street  
Asheville, North Carolina 28801

December 2, 2005

Mr. Andrew R. Mock  
Assistant Project Manager  
Northeast Corridor Light Rail Project  
Charlotte Area Transit System  
600 East 4<sup>th</sup> Street  
Charlotte, North Carolina 28202

Dear Mr. Mock:

Subject: Scoping Letter for the Preparation of a Draft Environmental Impact Statement for the Northeast Corridor Light Rail Project, Charlotte, Mecklenburg County, North Carolina

In your letter of October 31, 2005, you requested our comments on the subject project. We have reviewed the information you presented and are providing the following comments in accordance with the provisions of the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661-667e), and section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) (Act).

Your letter indicates that the Charlotte Transit Authority is in the process of preparing a draft Environmental Impact Statement for a proposed light rail project that will extend about 12 miles, from Center City Charlotte to the Mecklenburg/Cabarrus County line. The project would be configured with two tracks, one for northbound service and one for southbound service. The tracks would be located at grade and would roughly parallel North Tryon Street/US 29.

You do not present evidence of any surveys of the project area for federally listed species known from Mecklenburg County. Unless an area has been specifically surveyed for listed species or no appropriate habitat exists, a survey should be conducted to ensure that these resources are not inadvertently lost. Because the federally endangered Schweinitz's sunflower (*Heliopsis scweinitzii*) has been found very near the northern terminus of the proposed project, we would like to see a detailed account of the botanical analysis for this project. Schweinitz's sunflower is difficult to identify at any time, but even more so outside the flowering season (late August to October). Surveys should be conducted during the flowering season to ensure proper identification. Enclosed is a list of federally endangered and threatened species and federal species of concern for Mecklenburg County. In accordance with the Act, it is the responsibility of the appropriate federal agency or its designated representative to review its activities or programs and to identify any such activities or programs that may affect endangered or threatened species or their habitats. If it is determined that the proposed activity may adversely affect any species federally listed as endangered or threatened, formal consultation with this office must be initiated. Please note that federal species

of concern are not legally protected under the Act and are not subject to any of its provisions, including section 7, unless they are formally proposed or listed as endangered or threatened. We are including these species in our response to give you advance notification and to request your assistance in protecting them.

To protect and conserve fish and wildlife resources, we offer the following recommendations (where applicable) to help address the potential negative impacts (direct, secondary, and cumulative) associated with this project:

1. The construction of travel corridors can produce short-term direct impacts as well as long-term cumulative effects. Studies have shown a serious decline in the health of receiving waters when impervious surfaces increase within a watershed. Impervious surfaces should be limited to no more than 7 percent, curb and gutter should be limited in new developments, and the direct discharge of storm water into streams should be prevented. The project should include on-site storm-water management (i.e., bioretention areas) that will result in no net change in the hydrology of the watershed.
2. Stringent measures to control sediment and erosion should be implemented prior to any ground disturbance and should be maintained throughout project construction. Temporary or permanent herbaceous vegetation should be planted on all bare soil as soon as possible. We recommend revegetating within 5 days, but no longer than 15 days, after ground-disturbing activities in order to provide long-term erosion control.
3. Efforts should be made to avoid the removal of large trees at the edges of construction corridors. Disturbed areas should be reseeded with seed mixtures that are beneficial to wildlife. Fescue-based mixtures should be avoided; fescue is invasive and provides little benefit to wildlife. Native annual small grains appropriate for the season are preferred and recommended. Where feasible, use woody debris and logs from corridor clearing to establish brush piles and downed logs at the edges (just in the woods) of the cleared rights-of-way to improve habitat for wildlife. Allowing the right-of-way to develop into a brush/scrub habitat would maximize benefits to wildlife. Right-of-way maintenance should be minimized, and mowing should be prohibited between April 1 and October 1 in order to reduce impacts to nesting wildlife. We suggest a maintenance schedule that incorporates a portion of the area (e.g., one-third) each year instead of the entire project every 2 or 3 years. Additionally, herbicides should not be used in wetland areas or near streams.
4. All wetland/stream crossings should be made perpendicular to the stream, and spanning structures should be used rather than culverts.
5. Wetland/stream buffers (a minimum of 100 feet on perennial streams and 50 feet on intermittent streams and wetlands) should be maintained throughout the project area.



6. All work in or adjacent to streams should be conducted in a dry work area. Where possible, sandbags, cofferdams, or other diversion structures should be used to prevent excavation in flowing water. These diversion structures should be removed immediately after the instream work is finished.
7. Bridge supports (bents) should not be placed in the stream. Bridges can be supported by various means, including log cribs, steel pipes, steel bin walls, cast-in-place concrete, and pre-cast lock block walls, timber, and piers. Where practicable, instream piers should be avoided. Piers can collect debris during flood events, resulting in the scouring of bridge foundations. Instream piers can also result in hydrological changes, such as bedload scour or deposition, which may adversely affect instream habitat.
8. Deck drains of spanning structures should not discharge directly into a stream; instead, they should drain through a vegetated area before entering a stream.
9. Side ditches should not be allowed to drain directly into the stream. Divert ditch water into a constructed sump or, where possible, onto stable forested vegetation that can filter sediment before the water reaches the stream. Ensure that adequate cross drainage is in place before the culvert approach in order to minimize the water volume directed into approach ditches at culvert sites. Consider the use of rolling grades to divert surface runoff. Where cross-ditches are used, ensure that they are properly armored at the outlet and along the base.
10. Do not allow wet concrete to contact any stream or any other water that has the potential to enter a stream. Uncured concrete or grout can kill aquatic organisms, including fish, by altering the pH of the water. Precast concrete and carefully protected grout should be used to eliminate the risk to fish. However, when cast-in-place concrete is required, all work should be done "in the dry," and the site should be effectively isolated from any water that may enter the stream for a minimum of 48 hours.
11. If culverts are used (instead of a bridge), they should be 48 inches or larger in diameter and should be buried approximately 1 foot into the streambed; culverts that are less than 48 inches in diameter should be buried to a depth equal to or greater than 20 percent of their size to allow for aquatic life passage. These measurements must be based on natural thalweg depths. Any perched outlets should be corrected during construction.

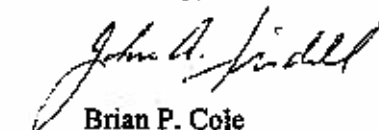
At this stage of project development and without more specifics about construction locations or techniques, it is difficult for us to assess potential environmental impacts (direct, indirect, and cumulative). We therefore recommend that any environmental document prepared for this project include the following (if applicable):

1. A complete analysis and comparison of the available alternatives (the build and no-build alternatives).

2. A description of the fishery and wildlife resources within existing and required additional rights-of-way and any areas, such as borrow areas, that may be affected directly or indirectly by the proposed project.
3. The acreage and a description of the wetlands that will be filled as a result of the proposed project. Wetlands affected by the proposed project should be mapped in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*. We recommend contacting the U.S. Army Corps of Engineers to determine the need for a Section 404 Clean Water Act permit. Avoiding and minimizing wetland impacts is a part of the U.S. Army Corps of Engineers' permitting process, and we will consider other potential alternatives in the review of any permits.
4. The extent (linear feet as well as discharge) of any water courses that will be impacted as a result of the proposed project. A description of any streams should include the classification (Rosgen 1995, 1996) and a description of the biotic resources.
5. The acreage of upland habitat, by cover type, that will be eliminated because of the proposed project.
6. A description of all expected secondary and cumulative environmental impacts associated with this proposed work.
7. A discussion about the extent to which the project will result in the loss, degradation, or fragmentation of wildlife habitat from direct construction impacts and from secondary development impacts.
8. Mitigation measures that will be employed to avoid, eliminate, reduce, or compensate for habitat value losses (wetland, riverine, and upland) associated with any phase of the proposed project.

We appreciate the opportunity to provide these comments. If we can be of any assistance or if you have any questions, please do not hesitate to contact Mr. Allen Ratzlaff of our staff at 828/258-3939, Ext. 229. In any future correspondence concerning this project, please reference our Log Number 4-2-06-051.

Sincerely,

  
Brian P. Cole  
for Field Supervisor

Enclosure

## ENDANGERED, THREATENED, AND CANDIDATE SPECIES AND FEDERAL SPECIES OF CONCERN, MECKLENBURG COUNTY, NORTH CAROLINA

This list was adapted from the North Carolina Natural Heritage Program's County Species List. It is a listing, for Mecklenburg County, of North Carolina's federally listed and proposed endangered, threatened, and candidate species and Federal species of concern (for a complete list of rare species in the state, please contact the North Carolina Natural Heritage Program). The information in this list is compiled from a variety of sources, including field surveys, museums and herbaria, literature, and personal communications. The North Carolina Natural Heritage Program's database is dynamic, with new records being added and old records being revised as new information is received. Please note that this list cannot be considered a definitive record of listed species and Federal species of concern, and it should not be considered a substitute for field surveys.

**Critical habitat:** Critical habitat is noted, with a description, for the counties where it is designated or proposed.

**Aquatic species:** Fishes and aquatic invertebrates are noted for counties where they are known to occur. However, projects may have effects on downstream aquatic systems in adjacent counties.

COMMON NAME	SCIENTIFIC NAME	STATUS
<b>MECKLENBURG COUNTY</b>		
<b>Vertebrates</b>		
Carolina darter	<i>Etheostoma collis collis</i>	FSC
Bald eagle	<i>Haliaeetus leucocephalus</i>	Threatened (proposed for delisting)
<b>Invertebrates</b>		
Carolina heelsplitter	<i>Lasmigona decorata</i>	Endangered
Carolina creekshell	<i>Villosa vaughaniana</i>	FSC
<b>Vascular Plants</b>		
Georgia aster	<i>Aster georgianus</i>	CI
Tall larkspur	<i>Delphinium exaltatum</i>	FSC*
Smooth coneflower	<i>Echinacea laevigata</i>	Endangered*
Schweinitz's sunflower	<i>Helianthus schweinitzii</i>	Endangered
Virginia quillwort	<i>Isoetes virginica</i>	FSC
Heller's trefoil	<i>Lotus helleri</i>	FSC
Michaux's sumac	<i>Rhus michauxii</i>	Endangered*

### KEY:

Status	Definition
Endangered	A taxon "in danger of extinction throughout all or a significant portion of its range."
Threatened	A taxon "likely to become endangered within the foreseeable future throughout all or a significant portion of its range."
CI	A taxon under consideration for official listing for which there is sufficient information to support listing.

FSC

A Federal species of concern--a species that may or may not be listed in the future (formerly C2 candidate species or species under consideration for listing for which there is insufficient information to support listing).

Species with 1, 2, 3, or 4 asterisks behind them indicate historic, obscure, or incidental records.

\*Historic record - the species was last observed in the county more than 50 years ago.

\*\*Obscure record - the date and/or location of observation is uncertain.

\*\*\*Incidental/migrant record - the species was observed outside of its normal range or habitat.

\*\*\*\*Historic record - obscure and incidental record.

**APPENDIX B4 – U.S. Army Corps of Engineers Documentation**

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**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT**

Action Id. 200901062

County: Mecklenburg

U.S.G.S. Quad: Charlotte East

**NOTIFICATION OF JURISDICTIONAL DETERMINATION**

Property Owner/Agent: City of Charlotte - Charlotte Area Transit System

Address: 600 East Fourth St.  
Charlotte, NC 28202

Telephone No.: \_\_\_\_\_

Property description:

Size (acres) 514 acres (study corridor)

Nearest Town Charlotte

Nearest Waterway Little Sugar Cr./Toby Cr./Mallard Cr. River Basin Catawba/Yadkin

USGS HUC \_\_\_\_\_ Coordinates N 35.2900 W -80.7570

Location description CATS LYNX BLE Northeast Corridor Light Rail project located from the intersection of East 6<sup>th</sup> Street and the existing rail line and extending to the intersection of N. Tryon St. and University Blvd.



**Indicate Which of the Following Apply:**

**A. Preliminary Determination**

- Based on preliminary information, there may be wetlands on the above described property. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process ( Reference 33 CFR Part 331).

**B. Approved Determination**

- There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are waters of the U.S. including wetlands on the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

We strongly suggest you have the wetlands on your property delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.

The waters of the U.S. including wetland on your project area have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

The wetlands have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on \_\_\_\_\_. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are no waters of the U.S., to include wetlands, present on the above described property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in Washington, NC, at (252) 946-6481 to determine their requirements.

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact Steve Chapin at (828) 271-7980 x224.

### C. Basis For Determination

Mallard Creek>Rocky River>Yadkin River which is navigable-in-fact at Blewett Falls dam. Little Sugar Creek>Sugar Creek>Catawba River which is navigable-in-fact at Lake Wylie.

### D. Remarks

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### E. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

District Engineer, Wilmington Regulatory Division  
Attn: Steve Chapin, Project Manager,  
Asheville Regulatory Field Office  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 12/21/09.

\*\*It is not necessary to submit an RFA form to the District Office if you do not object to the determination in this correspondence.\*\*

Corps Regulatory Official: \_\_\_\_\_



Date 10/21/2009

Expiration Date 10/21/2014

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://www.saw.usace.army.mil/WETLANDS/index.html> to complete the survey online.



## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: City of Charlotte - Charlotte Area Transit System	File Number: 2009-01062	Date: 10/21/09
Attached is:		See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)		B
<input type="checkbox"/> PERMIT DENIAL		C
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION		D
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION		E

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/ccwo/reg> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:  
Steve Chapin  
USACE  
151 Patton Avenue, Room 208  
Asheville, NC 28801-5006

If you only have questions regarding the appeal process you may also contact:  
Mr. Mike Bell, Administrative Appeal Review Officer  
CESAD-ET-CO-R  
U.S. Army Corps of Engineers, South Atlantic Division  
60 Forsyth Street, Room 9M15  
Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
----------------------------------	-------	-------------------

**For appeals on Initial Proffered Permits and approved Jurisdictional Determinations send this form to:**

**District Engineer, Wilmington Regulatory Division, Attn: Steve Chapin, Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006**

**For Permit denials and Proffered Permits send this form to:**

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Mike Bell, Administrative Appeal Officer, CESAD-ET-CO-R, 60 Forsyth Street, Room 9M15, Atlanta, Georgia 30303-8801**

**U.S. ARMY CORPS OF ENGINEERS  
WILMINGTON DISTRICT**

Action Id. 200901062County: MecklenburgU.S.G.S. Quad: Charlotte East

**NOTIFICATION OF JURISDICTIONAL DETERMINATION**

Property Owner/Agent: City of Charlotte - Charlotte Area Transit SystemAddress: 600 East Fourth St.  
Charlotte, NC 28202

Telephone No.: \_\_\_\_\_



Property description:

Size (acres) 514 acres (study corridor)Nearest Town CharlotteNearest Waterway Little Sugar Cr./Toby Cr./Mallard Cr. River Basin Catawba/YadkinUSGS HUC \_\_\_\_\_ Coordinates N 35.2900 W -80.7570Location description CATS LYNX BLE Northeast Corridor Light Rail project located from the intersection of East 6<sup>th</sup> Street and the existing rail line and extending to the intersection of N. Tryon St. and University Blvd.

**Indicate Which of the Following Apply:**

**A. Preliminary Determination**

- Based on preliminary information, there may be wetlands on the above described property. We strongly suggest you have this property inspected to determine the extent of Department of the Army (DA) jurisdiction. To be considered final, a jurisdictional determination must be verified by the Corps. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process ( Reference 33 CFR Part 331).

**B. Approved Determination**

- There are Navigable Waters of the United States within the above described property subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are waters of the U.S. including wetlands on the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

We strongly suggest you have the wetlands on your property delineated. Due to the size of your property and/or our present workload, the Corps may not be able to accomplish this wetland delineation in a timely manner. For a more timely delineation, you may wish to obtain a consultant. To be considered final, any delineation must be verified by the Corps.

The waters of the U.S. including wetland on your project area have been delineated and the delineation has been verified by the Corps. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.

The wetlands have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on \_\_\_\_\_. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- There are no waters of the U.S., to include wetlands, present on the above described property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in Washington, NC, at (252) 946-6481 to determine their requirements.

Placement of dredged or fill material within waters of the US and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). If you have any questions regarding this determination and/or the Corps regulatory program, please contact Steve Chapin at (828) 271-7980 x224.

### C. Basis For Determination

Mallard Creek>Rocky River>Yadkin River which is navigable-in-fact at Blewett Falls dam. Little Sugar Creek>Sugar Creek>Catawba River which is navigable-in-fact at Lake Wylie.

### D. Remarks

This is a modification of the previous JD verification issued under the same Action ID. on 10/21/09. Since this date, additional properties have been added to the study area.

### E. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

District Engineer, Wilmington Regulatory Division  
Attn: Steve Chapin, Project Manager,  
Asheville Regulatory Field Office  
151 Patton Avenue, Room 208  
Asheville, North Carolina 28801-5006

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by 1/24/09.

\*\*It is not necessary to submit an RFA form to the District Office if you do not object to the determination in this correspondence.\*\*

Corps Regulatory Official: \_\_\_\_\_

*Steve Chapin*

Date 11/24/2009

Expiration Date 11/24/2014

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://www.saw.usace.army.mil/WETLANDS/index.html> to complete the survey online.

## NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: City of Charlotte - Charlotte Area Transit System	File Number: 2009-01062	Date: 11/24/09
Attached is:		See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)		B
<input type="checkbox"/> PERMIT DENIAL		C
<input checked="" type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION		D
<input type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION		E

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT: You may accept or appeal the permit**

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Steve Chapin  
USACE  
151 Patton Avenue, Room 208  
Asheville, NC 28801-5006

If you only have questions regarding the appeal process you may also contact:

Mr. Mike Bell, Administrative Appeal Review Officer  
CESAD-ET-CO-R  
U.S. Army Corps of Engineers, South Atlantic Division  
60 Forsyth Street, Room 9M15  
Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Date:

Telephone number:

\_\_\_\_\_  
Signature of appellant or agent.

**For appeals on Initial Proffered Permits and approved Jurisdictional Determinations send this form to:**

**District Engineer, Wilmington Regulatory Division, Attn: Steve Chapin, Project Manager, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, North Carolina 28801-5006**

**For Permit denials and Proffered Permits send this form to:**

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Mike Bell, Administrative Appeal Officer, CESAD-ET-CO-R, 60 Forsyth Street, Room 9M15, Atlanta, Georgia 30303-8801**

**APPENDIX B5 – Mecklenburg County Land Use and Environmental Services Agency  
Air Quality Division Documentation**

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MECKLENBURG COUNTY  
Land Use and Environmental Services Agency  
- AIR QUALITY -

February 8, 2010

Kelly Goforth  
LYNX BLE Project Development Manager  
CATS Department  
600 East 4<sup>th</sup> Street  
Charlotte, NC 28202



Dear Ms. Goforth,

Thank you for the opportunity to review and comment on the draft air quality chapter for the LYNX Blue Line Extension (BLE) Environmental Impact Statement (EIS). I am writing to inform you that the U.S. Environmental Protection Agency (USEPA) has developed a new on-road mobile source emission model, Motor Vehicle Emissions Simulator (MOVES). MOVES replaces the previous model for estimating on-road mobile source emissions, MOBILE6.2. This change may affect the modeling required for this EIS as well as the methodology you will be required to use when applying for a Transportation Facility Construction permit from Mecklenburg County Air Quality (MCAQ).

EPA will be publishing a Federal Register notice of availability in the near future to approve MOVES for official purposes. Upon publication of the Federal Register notice, MOVES will become EPA's approved motor vehicle emission factor model for estimating volatile organic compounds (VOCs), nitrogen oxides (NOx), carbon monoxide (CO), direct particulate matter (PM10 and PM2.5) and other pollutants and precursors from cars, trucks, motorcycles, and buses by state and local agencies outside of California. MOVES is currently available for free download on the USEPA website <http://www.epa.gov/otaq/models/moves/index.htm>.

Please be advised that MOVES may be the required emission factor model for the LYNX BLE EIS. MCAQ also advises CATS to consult with federal review agencies specifically about this matter. Before beginning air quality modeling for a transportation facility permit, please contact MCAQ directly for a determination on the use of MOVES.

Sincerely,

Megan Green  
Air Quality Specialist

MEG:isp