The Division of Water Infrastructure (DWI) prepared this factsheet to provide directions on how to obtain a Categorical Exclusion (CE).

Most projects seeking federal funds (e.g., drinking water state revolving fund (DWSRF) loans) do not need to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA). Instead, most projects can obtain a CE - a finding by the DWI that the project - either individually or cumulatively with other projects - would have no significant effect on the human environment and therefore does not require further environmental review.

Requesting a CE is straightforward. Along with the "CE Request" form, the applicant submits agency comment letters:

* In many cases, the applicant’s engineer may provide a blanket comment letter for each agency.
* In some cases, the applicant will need to request project-specific comment letters from one or more of the agencies. These cases are discussed in more detail under each agency.

The agencies of interest are as follows:

* North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office
* U.S. Fish and Wildlife Service
* U.S. Army Corps of Engineers

The remainder of this document describes the form and comment letters in greater detail.

## CE Request Form

The CE Request form is formally the “Request for Categorical Exclusion from Substantive Environmental Review” and is available [on this web page](https://www.deq.nc.gov/about/divisions/water-infrastructure/lead-service-line-replacement-funding), under the heading “For Funded LSLR Projects: Guidance Documents”.

Keep the following directions in mind when filling out the CE Request form:

1. Carefully read the form before filling it out.
2. Enter the applicant's complete formal name. If you are a county authority, specify which county. For example, "**Wake County Water District VII**" is better than "**County Water District VII**".
3. Enter a detailed project description: "**installing approximately 4,000 ft. of 6-inch line along US. Route 52, including one booster pump and rechlorination station.**"
4. Check ALL the exclusions that apply. Failure to check an applicable exclusion will result in rejection of the request for CE. In particular, if you are installing a well, you will also wish to withdraw water from the well, so check both the "installation" and "withdrawal" exclusions.
5. Ensure that each exclusion applies before checking it. If the project size exceeds any exclusionary threshold, then the project is ineligible for CE.
6. The applicant’s authorized representative or the engineer must sign and date the form.
7. Print the name of the signer.
8. Print the signer's job title.

## Agency Comment Letters

A request for CE must include agency comment letters.

Most projects are covered by blanket comments from one or more agencies. If the project meets a particular agency’s blanket comment conditions, the applicant’s engineer only needs to certify that the project meets those conditions, and the applicant does not need to obtain a project-specific comment letter from that agency.

Attachment 1 provides the proper language for the certification for each agency.

Most projects do not need project-specific comment letters.

When a project does not meet the blanket comment conditions for a particular agency, the applicant must request and obtain a project-specific comment letter from that agency.

The request to an agency for a project-specific comment letter should include a **color-coded map of the proposed project and surrounding area**. Follow up your letter to ensure that each agency receives any other information the agency requires to issue a comment letter.

An example request is included as Attachment 2 to this guide. As stated in this example letter, the agency contacts should submit comment letters directly to DWI.

## Issuing the CE

After review of the CE Request form, the comment letters, and other project documentation, DWI may take the following actions:

* Request additional information.
* Request an Environmental Assessment.
* Issue a CE. No further environmental documentation is required to DWI.

# Attachment 1 - Comments from Potentially Interested Agencies

### NC Department of Natural and Cultural Resources (NC DNCR)

NCDNCR is the designated "State Historic Preservation Office” (SHPO) for federal programs such as the DWSRF.

For many projects, you can address SHPO blanket comments with an addendum to the Engineering Report (ER), sealed by a Professional Engineer, stating that the project consists solely of the following components:

1. The placement of equipment within an existing facility's fence line. This would include upgrades to an existing water treatment plant.
2. New or replacement water meters on existing water lines.
3. New or replacement waterlines in previously disturbed road or utility rights-of-way. And
4. The installation of solar-powered mixers in an existing tank when the area of the solar panels is less than 108 square feet.

SHPO will need to issue project-specific comment letters for any other project; specifically, any project that includes the following:

1. Intake structures.
2. New waterlines going cross-country (e.g., establishing new right-of-way). Or
3. Water tanks.

When requesting SHPO comments, you may find the following website to be useful: <https://www.dncr.nc.gov/about-us/history/division-historical-resources>

To request the SHPO comment letter, open the Environmental Review website for SHPO (<https://www.hpo.nc.gov/environmental-review>) click on [the **Environmental Review Project Submittal**](https://www.ncdcr.gov/state-historic-preservation-office/environmental-review)[**Process**, and follow the d](https://www.ncdcr.gov/state-historic-preservation-office/environmental-review)irections in the *Project Review Checklist* for Email Submittals - <https://www.hpo.nc.gov/environmental-review/environmental-review-project-submittal/project-review-checklist>

For more information, contact Ms. Renee Gledhill- Earley at the State Historic Preservation Office,

919-814-6579, or by email at renee.gledhill-earley@dncr.gov

1. **US Fish and Wildlife Service (USFWS)**

USFWS reviews impacts on threatened or endangered species. For many projects, you can address USFWS's blanket comments in the Engineering Report (ER), sealed by a Professional Engineer, stating that the project consists solely of the following components:

1. The installation or replacement of water meters on already existing services on existing waterlines.
2. Additions of equipment in an existing water facility that do not change its influent or effluent. This would include renovations and upgrades such as solar- powered mixers at an existing tank or renovation of an existing water treatment plant or pumping facility that does not increase its capacity. and
3. Installation of SCADA (supervisory control and data acquisition) or other telemetry equipment.

USFWS will specifically need to issue comment letters for projects that include either intake structures or waterlines, even in existing right-of-way. The following procedures will speed USFWS's comment letter:

1. View the USFWS website (<https://www.fws.gov/program/endangered-species/species>) and review the list of Endangered Species, Threatened Species, Federal Species of Concern, and Candidate Species in the project

area (generally, the county).

1. Review the habitat of each Endangered Species, Threatened Species, Federal Species of Concern, and Candidate Species to determine if the habitat would be affected by the proposed project.
2. Document your determinations in a letter requesting USFWS comment. The letter must list the species, habitats and determinations and briefly explain how you reached your determinations. The letter should be substantially similar to the TEMPLATE attached to this document. The quality of this letter will greatly influence the speed with which USFWS can respond.
3. If USFWS does not respond within 30 days after you send the letter requesting USFWS comment, your engineer can make a statement (signed and sealed in the Engineering Report) that the project will not adversely affect Endangered Species or Threatened Species. This signed and sealed addendum to the ER - along with a copy of the comment request letter - will serve as USFWS comment.

Western NC USFWS Rep. The contact information for western North Carolina:

Field Office Supervisor

*(currently Ms. Janet Mizzi, check* [*https://www.fws.gov/office/asheville-ecological-services/contact-us*](https://www.fws.gov/office/asheville-ecological-services/contact-us)*)*

US Fish and Wildlife Asheville Field Office

828-215-1741

janet\_mizzi@fws.gov

Address

160 Zillicoa Street

Asheville, NC 28801

Eastern NC USFWS Rep. The contact information for Raleigh & Eastern NC:

Field Office Supervisor

*(currently Mr. Peter Benjamin, check* [*https://www.fws.gov/office/eastern-north-*](http://www.fws.gov/nc-es/staff/ralstaff.html) *carolina-ecological-services/contact-us)*

US Fish and Wildlife Service

Raleigh Field Office

Telephone: 984-308-0802; 252-473-1131

Fax: 252-473-1668

pete\_benjamin@fws.gov; raleigh@fws.gov

Mail address

P.O. Box 1969 Manteo, NC 27954

1. **US Army Corps of Engineers (USACE)** - USACE regulates impacts on "the waters of the United States" under Sections 9 and 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act. USACE's prime interest as a commenting agency is to ensure that projects are properly permitted and comply with their permit.

After determining the permitting requirements for the project, provide the DWI with one of the following blanket comments:

1. If none of the construction activities or facilities themselves is to occur in a stream, lake, or other body of water or in wetlands, submit an Engineering Report (ER) sealed by a Professional Engineer that includes this

statement: "I have determined that no US Army Corps of Engineers Permit is required."

Note that this comment applies to a waterline with only directional-bore stream crossings, so long as no drilling mud or other materials are discharged into a stream or wetland.

2. After securing all required USACE permits, submit an ER sealed by a Professional Engineer that includes this statement: "**I have determined that all required Army Corps of Engineers permits are in place.**"

USACE states, "any project that will result in a discharge of dredged or fill material into 'waters of the United States' requires a permit." Most water projects will not need a permit. Most water projects that need a permit can be covered by a nationwide permit 12. You can download the text of nationwide permit 12 at the following website: <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Permits/NationwidePermits/>

A list of other nationwide permits can be found at the following website:

<https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Permits/2017-Nationwide-Permits/>

Carefully read the applicable permit - including the General and Regional Conditions - to be sure you understand any requirements for notification to the US Army Corps of Engineers. Note that certain waters in NC cannot use a nationwide permit during certain times of the year because of fisheries moratoria.

If you are still unsure whether a permit is required, you can contact the local US Army Corps of Engineers Regulatory Field Office responsible for the county in which the project is located. You can find the office responsible for each county through the Corps of Engineers website: <https://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Contact/>

From there, you will find the contact for the project's county, or contact the field offices.

If you have general (not project-specific) questions, you can direct them to Scott C. McLendon or his equivalent of the Wilmington District Office of USACE at the following address:

Scott C. McLendon CE-SAW-RG

US Army Corps of Engineers

69 Darlington Avenue

Wilmington, North Carolina 28403

Direct: 910-251-4952

General Number: 252-740-5719 or 910-251-4625/26 or 252-740-5719

scott.c.mclendon@usace.army.mil and/or

sawweb-pao@usace.army.mil

Website: http:// [www.saw.usace.army.mil/](http://www.saw.usace.army.mil/)

# Attachment 2 – Template Comment Request Letter

DATE

APPLICANT NAME AND ADDRESS CONTACT NAME AND ADDRESS Dear CONTACT:

We have requested categorical exclusion from substantive environmental review requirements (CE) under 15A NCAC 1C .0408 "minimum criteria" rules, for the project listed below. Before granting the request, the Division of Water Infrastructure (DWI) of North Carolina Department of Environmental Quality (NCDEQ) requires us to seek your agency’s comment on the advisability of issuing a CE. Specific project information is laid out below.

The Applicant is to place detailed project information below.

Project Information

Project #:

Applicant: THE APPLICANT IS TO PLACE ITS FULL FORMAL NAME HERE

County: THE APPLICANT IS TO PLACE THE NAME (OR NAMES) OF THE COUNTY (OR COUNTIES) IN WHICH THE PROJECT WILL BE CONSTRUCTED HERE

Project Description: THE APPLICANT IS TO PLACE A DETAILED PROJECT DESCRIPTION HERE

Applicant Contact Information

THE APPLICANT IS TO PLACE DETAILED CONTACT INFORMATION INCLUDING THE CONTACT'S NAME, ADDRESS, PHONE, FAX AND EMAIL IN THIS SECTION.

Project Engineer Contact Information

THE APPLICANT IS TO PLACE DETAILED CONTACT INFORMATION INCLUDING THE ENGINEER'S NAME, ADDRESS, PHONE, FAX AND EMAIL IN THIS SECTION.

The Applicant is to replace the example text with information for the specific project.

Additional Information (if applicable): The project is entirely limited to Wallaby County. The only species listed on the USFWS website (<https://www.fws.gov/office/eastern-north-carolina-ecological-services/species>) for Wallaby County is the Hairy Wombat, a "Threatened Species." The waterline replacement project does not take place in and is not expected to adversely affect the snodgrass-land habitats required by the Hairy Wombat.

|  |  |  |  |
| --- | --- | --- | --- |
| **County** | **Species** | **Listing** | **Explanation of expected impact** |
| Wallaby County | Hairy Wombat | Threatened | The only snodgrass-lands in Wallaby County are in a state park three miles from this waterline replacement project. Therefore, the project has no expected adverse impact. |

In developing your comments, please address those federal cross cutting authorities listed with your agency below:

|  |  |
| --- | --- |
| **Agency** | **Cross Cutting Authority** |
| North Carolina Cultural Resources | Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended |
| National Historic Preservation Act of 1966, PL 89-665, as amended |
| United States Fish & Wildlife Service | Endangered Species Act, Pub. L. 93-205, as amended |
| Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended |
| Wild and Scenic Rivers Act, Pub. L. 90-542, as amended |
| United States Army Corps of Engineers | Protection of Wetlands, Executive Order 11990 and Floodplain Management, Executive Order 11988 |

After your review, please provide comments to the DWI, preferably by via the Online Supporting Documentation Submittal Form located at: <https://edocs.deq.nc.gov/Forms/DW-Document-Upload-Form> and/or via email at dustin.rhodes@deq.nc.gov. You may also write to Dustin Rhodes at the addresses below. If you require additional information, please inquire directly to the applicant contact, at the address above.

|  |  |
| --- | --- |
| **Parcel Delivery (e.g., FedEx) Address** | **Regular Mail Address** |
| Division of Water Infrastructure Archdale Building – Room 825R 512 North Salisbury Street Raleigh, NC 27604919-707-9160 | Division of Water Infrastructure 1633 Mail Service Center Raleigh, NC 27699-1633 |

To enable the project to move forward, please issue your comment letter or email even if you have no comments. You may reply by e-mail.

Sincerely,

APPLICANT

Enclosures: Color-coded Project Map

cc: Dustin Rhodes, PE, Supervisor, DWI