



**DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
ASHEVILLE REGULATORY FIELD OFFICE
151 PATTON AVENUE, ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006**

June 23, 2023

Regulatory Division

Action ID Number: SAW-2023-01169

Mr. Bill Langley
5665 Highway 9 N
Mill Spring, NC 28756

Dear Mr. Langley:

This correspondence confirms your May 22, 2023, onsite meeting with Ms. Shannon Healy of my staff on your property, located off Caitlin Raney Way, adjacent to Bradley Creek, near Cedar Mountain, in Transylvania County, North Carolina. This correspondence also confirms your May 2, 2023, telephone conversation with Ms. Healy. The purpose of the meeting and telephone call was to address the unauthorized construction of an in-line impoundment previously undertaken within an Unnamed Tributary (UT) to Bradley Creek on the subject property.

My staff's inspection revealed that a previous landowner is responsible for the installation of an impounding structure, impoundment, and outlet discharge pipe within approximately 925 square feet (410 linear feet) of the UT to Bradley Creek. This activity, undertaken in waters of the United States without the prior approval from this office in the form of a Department of the Army (DA) permit, constitutes a violation of Section 301 of the Clean Water Act (33 USC 1311).

Based on our investigation, the pond construction could be authorized via Nationwide Permit 18 (attached). As such, the Corps will take no further action in this matter provided you comply with the terms and conditions of the attached permit. Additionally, normal downstream flow must be maintained at all times in order to mimic natural downstream flow regimes and support aquatic life functions. Therefore, the bottom release gate must remain open, operational, and provide at least base flow passage or the minimum passage of the seven day average flow rate that occurs within an average frequency of once in 10 years as published or verified by the U.S. Geological Survey (USGS) or an estimate extrapolated from published or verified USGS data (7Q10).


The work may require an Individual Water Quality Certification from the North Carolina Division of Water Resources. Please contact Mr. Andrew Moore via phone (828) 296-4684 or email andrew.w.moore@deq.nc.gov for further guidance. Mr. Moore is copied on this correspondence.

Failure to comply with this request may result in an enforcement action with this office and/or referral of this matter to the United States Attorney with a recommendation for appropriate action. Any further work within waters of the United States should be coordinated with this office prior to undertaking any work.

Thank you for your time and cooperation in resolving this matter of importance. If you have any questions, please contact Ms. Shannon Healy at the Asheville Regulatory Field Office, telephone (828) 271-7980 ext. 4233, or email shannon.healy@usace.army.mil.

FOR THE DISTRICT ENGINEER

Sincerely,

 Date: 2023.06.23
07:53:45 -04'00'

M. Scott Jones, PWS
Chief, Asheville Regulatory Field Office

Enclosure

cc:
Ms. Dena J. King, U. S. Attorney
Western District of North Carolina
U. S. Courthouse, Room 306
100 Otis Street
Asheville, NC 28801-2611

Mr. Andrew Moore
Division of Water Resources
North Carolina Department of Environmental Quality
Asheville Regional Office
2900 U.S. 70 Highway
Swannanoa, NC 28778-8211

July 3, 2023

Subject: Summary of Discussion with NC Water Quality Program
Andrew Moore Environmental Specialist I
andrew.w.moore@deq.nc.gov (828) 296-4684
Water Resources Water Quality Regional Operations Asheville
2090 U.S. 70 Highway
Swannanoa, NC 28778-8211
Room #242
(828) 296-4684

Dam Location: Unnamed tributary to Bradley Creek, Transylvania County
lat 35° 08' 09" long -82° 42' 48"
www.webgis.net/NC/Transylvania/?op=id&id=1|parcels|pin|8592-05-3196-000

Mr. Moore called to discuss the permit status of the subject dam, which was not permitted by his office prior to construction. We considered the dam height, the impounded water area and volume, and the decision by the USACE and the NC Dam Safety Program to take no further action on the dam and impoundment which were constructed without prior approvals. He stated that an after-the-fact approval by his office was not possible as any impacts of the construction on water quality was already realized. So, an Individual Water Quality Certification from the North Carolina Division of Water Resources cannot be granted, and no further action will be taken.

William G. Langley

June 30, 2023

Subject: Summary of Discussion with NC Dam Safety Program
Stan Aiken PE, Engineering Supervisor
Division of Energy, Mineral, and Land Resources
NC Department of Environmental Quality
Asheville Regional Office
2090 U.S. 70 Highway
Swannanoa, NC 28778-8211

Dam Location: Unnamed tributary to Bradley Creek, Transylvania County
lat 35° 08' 09" long -82° 42' 48"
www.webgis.net/NC/Transylvania/?op=id&id=1|parcels|pin|8592-05-3196-000

Mr. Aiken called to discuss the permit status of the subject dam, which was not permitted by his office prior to construction. We considered the dam height, the impounded water volume, and the decision by the USACE to take no further action on the dam and impoundment which constructed without prior USACE approval. Based on the dam height and impounded water volume being less than the threshold values for exempt status (less than 25 feet in height or impoundment capacity less than 50 acre-feet), he stated that the no further action would be taken by the state. However, he also stated that it was in my best interest to simulate the failure of the dam using the computer program HEC-RAS to determine if this might result in significant damage to property below the dam and/or inundation of East Fork Road . If the simulation does indicate that such impacts are possible, I should then request a review by his office for determination of the hazard potential, and possible inclusion of the dam in the state's inventory.

William G. Langley

Resume

William G. Langley, Ph.D., P.E. (retired)
5665 Hwy 9 N Mill Spring, NC 28756
704-549-8928
wglangley@gmail.com

Education:

- Ph.D. Civil Engineering, North Carolina State University, 1996.
Civil Engineering major with emphasis in fate and transport of environmental contaminants, water and wastewater treatment, surface water hydraulics, and hydrology.
- M.E. Civil Engineering, University of South Carolina, 1981.
Civil Engineering major with emphasis in structural engineering.
- B.S.E. Urban and Environmental Engineering, University of North Carolina at Charlotte, 1978.
Civil Engineering major with emphasis in structural and environmental engineering.

Experience:

- 2011-2020 Research Associate Professor, Visiting Lecturer and Adjunct Professor, Department of Civil and Environmental Engineering, UNC-Charlotte, Charlotte, NC
Graduate and undergraduate teaching, graduate committee memberships, modeling groundwater and water quality for funded projects.
- 1998-2010 Consultant and Senior Engineer at Langley Engineering P.C., Charlotte, NC
Water supply and treatment, waste water collection and treatment, groundwater modeling and remediation, storm water management.
- 1993-1997 Senior Engineer, IEG Technologies, Charlotte, NC
Ground water remediation and bioremediation based on vertical circulation well technology.
- 1987-1992 Lecturer and Research Associate, Department of Civil Engineering, UNC-Charlotte, Charlotte, NC
Teaching and dissertation research.
- 1981-1986 Hydrologist, Water Resources Division, U.S. Geological Survey, Richmond, VA
Surface and ground water hydrology, water quality, flood studies.
- 1978-1980 Engineer Associate, Duke Power Company, Charlotte, NC
Structural steel, reinforced concrete, pressure vessels.

Engineering Licensure: North Carolina, South Carolina (both retired in 2020)