

## PUBLIC NOTICE

**CHARLESTON DISTRICT, CORPS OF ENGINEERS**  
69A Hagood Avenue  
Charleston, South Carolina 29403-5107

REGULATORY DIVISION

MARCH 24, 2006

Refer to: GENERAL PERMIT # 2006-10-001

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Charleston District Engineer proposes to issue General Permit # 2006-10-001. This permit will be issued to the General Public and authorizes the construction and/or installation of piers, floating docks (including joint use docks and excluding community docks), mooring piles or dolphins, covered boat sheds and dock covers for private, non-commercial uses within

### **NAVIGABLE WATERS OF THE UNITED STATES**

within the regulatory jurisdiction of the Charleston District, within the State of South Carolina.

In order to give all interested parties an opportunity to express their views

## **NOTICE**

is hereby given that written statements regarding the proposed issuance of the above referenced General Permit will be received by this office until

**12 O'CLOCK NOON, MONDAY, APRIL 24, 2006.**

This General Permit, if issued, will be effective for a period of five (5) years.

For the activities occurring within the eight (8) coastal counties, (Horry, Georgetown, Berkeley, Dorchester, Charleston, Beaufort, Jasper and Colleton) the proposed General Permit must be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). The District Engineer will not issue this General Permit until such certification is received. This activity may also require evaluation for compliance with the S.C. Construction in Navigable Waters Permit Program. State review, permitting and certification are conducted by the S.C. Department of Health and Environmental Control.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed General Permit would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination is subject to review by and coordination with the NMFS.

The District Engineer has consulted the most recently available information and has determined that the proposed General Permit will have no effect on any Federally endangered, threatened, or proposed species and will not result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service for any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be affected by the proposed General Permit, pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended).

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In accordance with the NHPA, the District Engineer has evaluated the proposed General Permit regarding its potential to effect cultural resources including registered properties or properties listed as being eligible for inclusion in the National Register. Provisions have been made in the form of general conditions to the proposed General Permit, which should prevent any adverse effect to cultural resources due to the issuance of this General Permit. To insure that issues regarding cultural resources that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office to provide any information it may have with regard to impacts this General Permit may have on historic and cultural resources.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this project. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

If you have any questions concerning this matter, please contact Ms. Elizabeth Jackson at 843-329-8044.



Tina Hadden  
Chief, Regulatory Division

General Permit No.: 2006-10-001  
Name of Permittee: GENERAL PUBLIC  
Effective Date: \_\_\_\_\_  
Expiration Date: \_\_\_\_\_

**DEPARTMENT OF THE ARMY  
GENERAL PERMIT**

A General Permit to perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) is hereby issued by the authority of the Secretary of the Army by the

District Engineer  
U.S. Army Engineer District, Charleston  
Corps of Engineers  
69-A Hagood Avenue  
Charleston, South Carolina 29403-5107

to authorize, subject to the following special and general conditions, the construction, installation, maintenance and/or repair of piers, floating docks (including joint use and community docks), boat lifts, mooring piles, dolphins, covered boat sheds and dock covers, for private non-commercial uses within navigable waters of the United States in the State of South Carolina.

Projects authorized by this General Permit may also require other state or local authorizations. The installation of structures in state navigable waters is subject to the jurisdiction of South Carolina Department of Health and Environmental Control (SCDHEC). Projects located within Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown Counties are subject to the South Carolina Coastal Zone Management Plan, which is administered by SCDHEC, Office of Ocean and Coastal Resource Management.

**SPECIAL NOTE:** Activities covered under previously authorized General Permits for specific areas do not qualify for this general Permit. Those areas include:  
Lake Murray 2002-14-001, Lakes Marion & Moultrie 2002-14-002, Lake Wylie 2002-14-004, Fishing Creek Reservoir 2002-12-004, Great Falls 2002-14-004, Rocky Creek 2002-14-004, Lake Wateree 2002-14-004, Lake Keowee 2002-14-004, Ninety-Nine Islands 2002-14-004, and Gaston Shoals 2002-14-004.

**I. SPECIAL CONDITIONS:**

**A. Piers and Floating Docks**

**SPECIAL NOTE:** There are 3 categories of docks/floating dock restrictions listed below: 1) those located on or adjacent to a Federal Channel, 2) those **not** located on or adjacent to a federal channel and 3) those for **all** docks/floating piers regardless of their location. It is imperative that you read and comply with all terms and conditions.

**1. Located ON OR ADJACENT TO FEDERAL CHANNELS**

- a. Federal channels include all or portions of the following waterways:  
Atlantic Intracoastal Waterway  
Ashley River  
Brookgreen Garden Canal

Calabash Creek  
Charleston Harbor  
Folly River  
Georgetown Harbor  
Jeremy Creek  
Little River Inlet  
Murrells Inlet  
Port Royal Harbor  
Savannah River  
Shipyard Creek  
Town Creek  
Village Creek

b. Prior to any work being done, written permission must be obtained from the Corps of Engineers **for all activities located on a federally authorized waterway prior to commencement of work.** In order to receive this written permission, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written permission prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN:

- Completed "Joint Federal And State Application Form For Activities Affecting Waters Of The United States Or Critical Areas Of The State Of South Carolina"
- Plans of the proposed work (8.5 X 11" black and white drawings) showing all proposed structures ) in tidal areas relative to the mean high water (MHW) and mean low water (MLW) or in non-tidal areas relative to the mean sea level (MSL). Distance to the federal channel must be included. Plan view and cross-section diagrams are both required. (all diagrams must be drawn to scale or include dimensions of all proposed structures)
- A precise location of the proposed structure located by use of two (2) markers that currently exist in the area and the distance from the Federal channel. The survey must be completed by a registered land surveyor.
- Statement that the work will be conducted in compliance with the terms and conditions of this General Permit

c. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

- A statement that the authorized work was done in accordance with the General Permit
- The signature of the permittee certifying the completion of the work
- As-built drawings which indicate all dimensions of the structure as well as the distance between the centerline of the Atlantic Intracoastal Waterway (AIWW) (when applicable), a Federal channel and the waterward edge of the authorized structure. These drawings must be prepared by a registered land surveyor.

d. Structures located on or adjacent to federally authorized waterways shall extend no closer than eighty feet (80') from the near bottom edge of the federal channel, unless a variance has been granted by the Charleston District Engineer. A copy of the appropriate Federal Project Channel map can be obtained by writing to:

U.S. Army Corps of Engineers  
Charleston District, Regulatory Division  
69-A Hagood Avenue  
Charleston, South Carolina 29403-5107

2. All other areas (**NOT** located on or adjacent to federal channels)

a. The channelward extension of the fixed and/or floating dock shall not exceed one third of the width of the waterway, or the minimum length necessary to accomplish the project purpose provided there is no undue interference with navigation. Structures authorized by this General Permit may not extend beyond the line formed by existing structures in the immediate area.

3. **ALL** Piers and Floating Docks (on both federal and non-federal channels)

a. All structures authorized by this General Permit shall be designed, located, and/or operated to allow the full and free use by the public of all navigable waters. The following standards for the size of piers and floating docks will be followed unless the Corps determines in writing that a larger structure is authorized:

(1.) Waterways smaller than 20 feet wide, as measured from vegetated areas on both sides shall be restricted to a walkway with a fixed or floating structure no greater than 50 square feet;

(2.) Waterways between 21 feet and 50 feet wide, as measured from vegetated areas on both sides, shall be restricted to a fixed pier and floating dock combination up to 120 square feet;

(3.) Waterways between 51 feet and 150 feet wide, as measured from vegetated areas on both sides, shall be restricted to a fixed pier and floating dock combination up to 160 square feet;

(4.) Waterways larger than 151 feet wide, as measured from vegetated areas on both sides, shall be restricted to a fixed pier and floating dock combination that is the minimum size necessary to accomplish the project purpose.

b. The maximum width for the dock approach (fixed walkway) shall be restricted to four (4) feet unless the Corps determines in writing that a greater width is necessary for safe use or to support a water dependent use that cannot otherwise occur. The dock approach shall also be elevated at least three (3) feet above mean high water.

c. Structures located within twenty (20) feet of the waterward extension of the adjacent property lines are not authorized by this General Permit unless the adjacent property owners agree in writing to a variance in this dimension.

d. The structure shall be constructed of uniform materials, and be structurally adequate and aesthetically compatible with other existing structures.

e. Flotation units of floating structures shall be constructed of material which will not become waterlogged or sink when punctured.

f. Sinks, toilets, showers, or other equipment which will create or cause any liquid or solid waste to be discharged into waters of the United States are not authorized by this General Permit.

g. Dock cover roofs may be gabled or monosloped. Gabled roofs will not exceed 15 feet in height from the top of the gable to the pier flooring. Monosloped roofs will not exceed 12 feet in height from the top of the slope to the pier flooring.

h. Enclosed buildings or other structures are not authorized. Boat lifts, boat sheds, and dock covers are permissible provided that they do not block cross-vision. Storage compartments are permissible but will not exceed 14 inches in width, 30 inches in height, and 8 feet in length.

i. Docks that require dredging or excavation in order to create or improve access to navigable waters are not considered single and complete projects and therefore are

not authorized by this general permit. All dock structures that require dredging or excavation will be evaluated under an individual permit.

j. This General Permit does not authorize the construction of docks on individual lots for the purposes of selling parcels in newly constructed subdivisions or developments.

#### B. Mooring Piles, Dolphins and Boat Lifts

1. Mooring piles or dolphins that are associated with a fixed pier or floating dock shall be located no farther channelward and no farther than 30 feet from either end of the authorized structure.

2. Mooring piles or dolphins must be a minimum of twenty (20) feet from the waterward extension of the adjacent property lines. In addition, any vessels moored to these structures shall not swing or otherwise encroach into the riparian limits of the adjacent property unless the adjacent property owner agrees, in writing, to a variance in this dimension.

3. This General Permit does not authorize more than two (2) personal watercraft lifts.

4. Boat shed roofs may be gabled or monosloped. Gabled roofs will not exceed 15 feet in height from the top of the gable to the mean high water mark. Monosloped roofs will not exceed 12 feet in height from the top of the slope to the mean high water mark.

#### **II. GENERAL CONDITIONS:**

A. This General Permit authorizes only those activities and structures specifically addressed below. The permittee must obtain Department of the Army authorization, such as the issuance of an individual permit, for all other activities that are regulated pursuant to Section 10 of the Rivers and Harbors Act within waters of the United States.

B. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of the authorization, as set forth more specifically in General Condition F, below and in the institution of such legal proceedings as the United States Government may consider appropriate.

C. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and other environmental resources.

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D. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any degradation of water quality.

E. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms and conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with the District Engineer or a public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under this General Permit shall not be the basis for any claim for damages against the United States.

G. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit shall, the structure owner must within 60 days without expense to the United States and in such manner as directed by the District Engineer or his authorized representative(s), effect compliance with the terms, conditions, and standards or remove the previously authorized structure.

H. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws, nor does it obviate the requirement to obtain other Federal, State, or local assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

I. Works or structures authorized herein may be subject to damage by wave wash from passing vessels and wind-driven waves. The issuance of this General Permit does not relieve the permittee from taking all proper steps to ensure the integrity of works permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

J. The permittee shall maintain the work or structure authorized herein in good condition. If and when a permittee desires to abandon an authorized structure, unless such abandonment is part of a transfer procedure by which the individual is transferring ownership of the structure, the permittee may be required to remove the structure.

K. If the display of lights and signals on any structure authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

L. The term "permittee" means the individual authorized by the District Engineer to accomplish work under this General Permit. The activities authorized under this permit are for private, non-commercial use. Work will not be considered private if its planned or ultimate purpose is commercial or industrial in nature, it is in support of operations that charge for the production, distribution, or sale of goods or service, or it will be for the use of the general public. In certain instances the term "permittee" may include corporations or other commercial entities that are requesting authorization to construct joint use or community docks as amenities to residential developments.

M. Any activity that may affect any federally listed threatened or endangered species, a species proposed for listing, or designated critical habitat is **NOT** authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

N. Any activity that may affect any historic properties listed, or which may be eligible for listing on the National Register of Historic Places is **NOT** authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

O. If the permittee, prior to or during the performance of the work authorized herein, encounters previously unidentified archeological remains or cultural resources within the area subject to Department of the Army authorization, the applicant agrees to cease work and contact the District Engineer, so that further coordination with the South Carolina Institute of Archaeology and Anthropology and the South Carolina Department of Archives and History may be conducted.

P. This general permit relates only to activities authorized herein and does not convey the right to place any structures for any nonwater-related commercial use on or adjacent to any piers, floating docks, mooring piles, dolphins, covered boat sheds and/or dock covers without the prior approval of the District Engineer.

Q. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

R. That the Charleston District Engineer, at his discretion, may determine that this General Permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

S. This General Permit authorizes certain structures to be constructed on/or adjacent to areas subject to a prism and/or disposal easement held by the United States in perpetuity in conjunction with a Congressionally authorized project for the maintenance and improvement of the Atlantic Intracoastal Waterway. This General Permit does not convey any property rights either in real estate or material or any exclusive use privileges; nor does it relinquish any right the United States has for the use of its easement or the maintenance and future widening or deepening of the Atlantic Intracoastal Waterway pursuant to its easement rights.

T. If the District Engineer determines this structure shall in any way in the future conflict with the improvement, operation, maintenance and widening or deepening of the Atlantic Intracoastal Waterway, the owners themselves, their heirs, successors and assigns will remove said structure within 45 days from the date that written notice is given by the District Engineer, and there shall be no entitlement to compensation from the United States for damage or injury.

U. No permanent structures will be placed on the prism easement or on any adjacent disposal easement without written approval of the District Engineer.

V. The term "joint use dock" means the dock to be constructed can be used by no more than four (4) property owners.

### **III. PROHIBITED ACTIVITIES:**

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual or Nationwide Department of the Army Permit has been obtained from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

### **IV. REQUIRED AUTHORIZATIONS:**

A. Prior to performing any of the work authorized herein the permittee shall obtain the necessary state permits from the South Carolina Department of Health and Environmental Control and any other required Federal, State or Local authorizations.

B. For activities located in the Critical Area, the permittee shall obtain a Critical Area Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.

C. For activities located outside the Critical Area in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown Counties, the permittee shall obtain a Construction in Navigable Waters Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.

D. For activities located outside the eight coastal counties list in IV(C) above, the permittee shall obtain a Construction in Navigable Waters Permit from SCDHEC, Bureau of Water Quality.

### **V. PENALTIES FOR VIOLATIONS:**

Authorization obtained under this General Permit limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of the Section 10 of the Rivers and Harbors Act of 1899 and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

### **VI. REVOCATION OF THE GENERAL PERMIT:**

This permit may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as Individual or Nationwide Permits.

### **VII. DURATION OF THE GENERAL PERMIT.**

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. Revoking the General Permit will not affect work performed in accordance with the conditions stated herein. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will

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jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

\_\_\_\_\_  
Edward R. Fleming  
LTC, Corps of Engineers  
District Engineer

\_\_\_\_\_  
Date