

PUBLIC NOTICE

**CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A HAGOOD AVENUE
CHARLESTON, SC 29403-5107**

REGULATORY DIVISION

Refer to: General Permit SAC-2020-00959

14 August 2020

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344), and the South Carolina Coastal Zone Management Act (48-39-10 et.seq.),

NOTICE

is hereby given that the District Engineer, Charleston District proposes to issue a General Permit to federal, state, or local government agencies authorizing certain stormwater management activities located in tidal waters within the boundaries of the Critical Area Tidelands of the Coastal Zone of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties in South Carolina.

The General Permit would authorize the excavation/dredging of existing, maintained stormwater conveyances, expansion of existing, maintained stormwater conveyances, and installation of new stormwater conveyance and/or the re-establishment of non-maintained stormwater conveyances through tidal waters. The General Permit would also authorize the discharge of dredged or fill material and/or excavation/dredging to facilitate the installation of new and/or the maintenance, repair, replacement and/or extension of existing water control structures, pipes and culverts in tidal waters.

NOTE 1: A copy of the draft General Permit is attached to this Public Notice.

NOTE 2: The Corps and South Carolina Department of Health and Environmental Control – Office of Ocean and Coastal Resource Management (OCRM) have worked together to develop similar General Permits that would authorize certain stormwater management activities as described in the attached General Permit. The public notice for OCRM's proposed General Permit can be found at <https://epermweb.dhec.sc.gov/ncore/external/publicnotice/info/-5175311412052206304/details>

The purpose of this notice is to give all interested parties an opportunity to express their views on the proposed issuance of the above referenced General Permit before action is taken. Written statements regarding the issuance of this General Permit will be received at this office until

14 September 2020

from those interested in the activity and whose interests may be affected by the proposed work.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact estuarine substrates and emergent wetlands utilized by various life stages of species comprising the shrimp, and snapper-grouper management complexes. The District Engineer's initial determination is that the 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). The

District Engineer's final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Pursuant to the Section 7 of the Endangered Species Act of 1973 (as amended), the Corps has reviewed the project area, examined all information provided by the applicant, and the District Engineer has determined, based on the most recently available information that the project 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 present in the area which would be affected by the activity.

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.

This public notice constitutes a request for information regarding the potential effect that issuance of this General Permit may have on registered properties, or properties listed as being eligible for inclusion in the National Register of Historic Places.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

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 and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. 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. In cases of conflicting property rights, the Corps cannot undertake to adjudicate rival claims.

The Corps 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 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. **Please submit**

comments in writing, identifying the project of interest by public notice number to the following address:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, SC 29403-5107**

If there are any questions concerning this public notice, please contact Tracy D. Sanders, Project Manager, at (843) 329-8190 or toll free at 1-866-329-8187, or by email at Tracy.d.sanders@usace.army.mil.

General Permit No.: SAC-2020-00959

Name of Permittee: FEDERAL, STATE OR LOCAL GOVERNMENT AGENCY

Effective Date:

Expiration Date:

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

A General Permit to authorize the discharge of dredged or fill material into waters of the United States pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and/or to place structures or perform work in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act (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 certain stormwater management activities (as further described in Section I – Activities Authorized), by federal, state, or local government agencies for projects located in *tidal waters* within the boundaries of the

CRITICAL AREA TIDELANDS OF THE COASTAL ZONE OF
Beaufort, Berkeley, Charleston, Colleton, Dorchester,
Georgetown, Horry, and Jasper Counties.

SPECIAL NOTE 1: A Pre-Construction Notification (PCN) is required for all activities authorized by this General Permit. After submitting a PCN to the U.S. Army Corps of Engineers, Charleston District (Corps), project-specific written permission must be received from the Corps for all activities authorized by this General Permit prior to commencement of work.

SPECIAL NOTE 2: Section III provides definitions of certain *italicized* words and terms that are used in the text of this General Permit.

I. ACTIVITIES AUTHORIZED:

SPECIAL NOTE 3: In general, the *loss of tidal waters and/or the conversion of vegetated waters* resulting from activities authorized by this General Permit within a *geographic project area* is limited to **5-acres**. Additional activity-specific limitations are described below in Sections A.–D.

A. Maintenance of Existing, Maintained Stormwater Conveyances

The maintenance excavation/dredging of existing, *maintained stormwater conveyances* through *tidal waters* **is** authorized by this General Permit, provided that the maintenance activities restore the stormwater conveyances to previously excavated dimensions. There is no limit per conveyance to the maintenance excavation/dredging of existing stormwater conveyances that are *un-vegetated waters*. The maintenance excavation/dredging of existing stormwater conveyances that are *vegetated waters* **is** authorized, provided the activity does **not** cause the *conversion of more than 0.25 acre of vegetated waters per stormwater conveyance*. The *conversion* of more than 0.1 acre of *vegetated waters* as a result of the maintenance activities will require compensatory mitigation as previously stated above.

Side casting of and/or thin layer placement of the excavated/dredged material into jurisdictional waters is **not** authorized by this General Permit. Disposal of the excavated/dredged material must occur in an onsite or offsite upland location. The gradient/bottom elevation of each excavated/dredged ditch must follow the natural gradient/slope of the surrounding substrate of the *tidal waters* from the beginning of the ditch to the receiving creek to ensure positive flow. Over excavation/dredging of each ditch is **not** authorized.

In addition to the PCN requirements set forth in Section II below, the PCN must also include the following additional activity-specific information:

- a. Purpose and need of the proposed activity.
- b. A compensatory mitigation plan is required for the maintenance of each existing stormwater conveyance that is *vegetated waters* and results in the *conversion of more than 0.1 acre of vegetated waters*. Additionally, a compensatory mitigation plan is required for maintenance excavation/dredging of multiple stormwater conveyances that are *vegetated waters* and are located within the *geographic project area* identified in the PCN, that result in the cumulative *conversion of more than 0.1 acre of vegetated waters*. The mitigation plan should be prepared in accordance with the “Guidelines for Preparing a Compensatory Mitigation Plan”, or the most current mitigation requirements, which can be found at <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>. Compensatory mitigation is **not** required for maintenance excavation/dredging of existing stormwater conveyances located in *un-vegetated waters*.
- c. Method of excavation/dredging and sequencing of how the excavation/dredging will occur.

- d. Acreage impacts and cubic yards of excavated/dredged material (per stormwater conveyance and cumulative quantities if multiple stormwater conveyances).
- e. Identification of where the excavated/dredged material will be disposed. If the excavated/dredged material will be disposed of onsite or in a non-landfill location, the PCN should include the following information:
 - i. Location of the upland disposal area marked on a location map and the latitude and longitude provided. (NOTE: A jurisdictional determination from the Corps may be necessary).
 - ii. Size and capacity of the disposal area.
 - iii. Description of how the excavated/dredged material will be contained, dewatered and stabilized. Runback into jurisdictional waters is **not authorized**.
 - iv. Plans/drawings for the disposal area.
- f. Cross-sectional drawings that include the top width, bottom width, depth and slope of each existing stormwater conveyance (existing conditions) and top width, bottom width, depth and slope of the proposed maintenance excavation/dredging of each stormwater conveyance.
- g. Plan view drawings that include the existing length of each existing stormwater conveyance, the existing bottom depth gradient/elevation from the beginning of the conveyance through to the end of the each existing stormwater conveyance and the receiving creek, and baseline gradient/elevation of the substrate of the surrounding waters, including *vegetated* and *un-vegetated waters*.
- h. Site photographs of each existing stormwater conveyance. The photographs may include a combination of aerial photos and onsite photos. The photos should be numbered or otherwise identified and the photo location marked on a drawing or depiction.
- i. A copy of the original plans and/or previous permit with permit drawings. If not available, please provide an explanation.

B. Expansion of Existing, *Maintained Stormwater Conveyances*

The expansion of existing, *maintained stormwater conveyances* through *tidal waters* is authorized by this General Permit, provided the activity does not cause the *conversion* of **more than 0.25 acre of vegetated waters per stormwater conveyance**. The expansion activities may include widening, lengthening, and/or deepening the existing *maintained stormwater conveyances*.

Side casting and/or thin layer placement of the excavated/dredged material into jurisdictional waters is **not** authorized by this General Permit. Disposal of the excavated/dredged material must occur in an onsite or offsite upland location. The gradient/bottom elevation of each excavated/dredged stormwater conveyance must follow the natural gradient/slope of the surrounding substrate of the *tidal waters* from the beginning of the stormwater conveyance to

the receiving creek to ensure positive flow. Over excavation/dredging of the stormwater conveyance is **not** authorized.

In addition to the PCN requirements set forth in Section II below, the PCN must also include the following additional activity-specific information:

- a. Purpose and need of the proposed activity.
- b. A compensatory mitigation plan is required for the expansion of each stormwater conveyance that is *vegetated waters* and results in the *conversion* of **more than 0.1 acre of tidal vegetated waters**. Additionally, a compensatory mitigation plan is required for maintenance excavation/dredging of multiple stormwater conveyances that are *vegetated waters* and are located within the *geographic project area* identified in the PCN, that result in the cumulative *conversion* of **more than 0.1 acre of vegetated waters**. The mitigation plan should be prepared in accordance with the "Guidelines for Preparing a Compensatory Mitigation Plan", or the most current mitigation requirements, which can be found at <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>. Compensatory mitigation is **not** required for expansion excavation/dredging of existing stormwater conveyances located in *un-vegetated waters*.
- c. Method of excavation/dredging and sequencing of how the excavation/dredging will occur.
- d. Acreage impacts and cubic yards of excavated/dredged material (per stormwater conveyance and cumulative quantities if multiple stormwater conveyances).
- e. Identification of where the excavated/dredged material will be disposed. If the excavated/dredged material will be disposed of onsite or in a non-landfill location, the PCN should include the following information:
 - i. Location of the disposal area marked on a location map and the latitude and longitude provided. (NOTE: A jurisdictional determination from the Corps may be necessary).
 - ii. Size and capacity of the disposal area.
 - iii. Description of how the excavated/dredged material will be contained, dewatered and stabilized. Runback into jurisdictional waters is **not** authorized.
 - iv. Plans/drawings for the disposal area.
- f. Cross-sectional drawings that include the proposed excavation dimensions including top width, bottom width, depth and slope.
- g. Plan view drawings that include the existing length of each existing stormwater conveyance, the existing bottom depth gradient/elevation from the beginning of the conveyance through to the end of the each existing stormwater conveyance and the receiving creek, and baseline gradient/elevation of the substrate of the surrounding waters, including *vegetated* and *un-vegetated waters*.

h. Site photographs of the existing stormwater conveyance. The photographs may include a combination of aerial photos and onsite photos. The photos should be numbered or otherwise identified and the photo location marked on a drawing or depiction.

i. A copy of the original plans and/or previous permit with permit drawings. If not available, please provide an explanation.

C. Installation of New Stormwater Conveyances and/or Re-Establishment of *Non-Maintained Stormwater Conveyances*

The excavation/dredging of new stormwater conveyances and/or the re-establishment of existing, *non-maintained stormwater conveyances* through *tidal waters* is authorized by this General Permit, provided the activity does **not** cause the *conversion* of **more than 0.25 acre of vegetated waters per stormwater conveyance**.

Side casting and/or thin layer placement of the excavated/dredged material into jurisdictional waters is **not** authorized by this General Permit. Disposal of the excavated/dredged material must occur in an onsite or offsite upland location. The gradient/bottom elevation of each excavated/dredged stormwater conveyance must follow the natural gradient/slope of the surrounding substrate of the *tidal waters* from the beginning of the stormwater conveyance to the receiving creek to ensure positive flow. Over excavation/dredging of the stormwater conveyance is **not** authorized.

In addition to the PCN requirements set forth in Section II below, the PCN must also include the following additional activity-specific information:

- a. Purpose and need of the proposed activity.
- b. A compensatory mitigation plan is required for the maintenance excavation/dredging of each existing stormwater conveyance that is *vegetated tidal waters* and results in the *conversion* of **more than 0.1 acre of vegetated waters**. Additionally, a compensatory mitigation plan is required for maintenance excavation/dredging of multiple stormwater conveyances that are *vegetated waters* and are located within the *geographic project area* identified in the PCN, that result in the cumulative *conversion* of **more than 0.1 acre of vegetated waters**. The mitigation plan should be prepared in accordance with the "Guidelines for Preparing a Compensatory Mitigation Plan", or the most current mitigation requirements, which can be found at <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>. Compensatory mitigation is **not** required for expansion excavation/dredging of existing stormwater conveyances located in *un-vegetated waters*.
- c. Method of excavation/dredging and sequencing of how the excavation/dredging will occur.
- d. Acreage impacts and cubic yards of excavated/dredged material (per stormwater conveyance and cumulative quantities if multiple stormwater conveyances).

e. Identification of where the excavated/dredged material will be disposed. If the excavated/dredged material will be disposed of onsite or in a non-landfill location, the PCN should include the following information:

- i. Location of the disposal area marked on a location map and the latitude and longitude provided. (NOTE: A jurisdictional determination from the Corps may be necessary).
- ii. Size and capacity of the disposal area.
- iii. Description of how the excavated/dredged material will be contained, dewatered and stabilized. Runback into jurisdictional waters is **not** authorized.
- iv. Plans/drawings for the disposal area.

f. Cross-sectional drawings that include the proposed excavation dimensions including top width, bottom width, depth and slope.

g. Plan view drawings that include the existing length of each existing stormwater conveyance, the existing bottom depth gradient/elevation from the beginning of the conveyance through to the end of the each existing stormwater conveyance and the receiving creek, and baseline gradient/elevation of the substrate of the surrounding waters, including *vegetated* and *unvegetated waters*.

i. Site photographs that may include a combination of aerial photos and onsite photos. The photos should be numbered or otherwise identified and the photo location marked on a drawing or depiction.

D: Installation of New, and/or the Maintenance, Repair, Replacement and/or Extension of Existing Water Control Structures, Pipes, and Culverts

The discharge of dredged or fill material and/or excavation/dredging to facilitate the installation of new *water control structures* and/or the maintenance, repair, replacement and/or extension of existing *water control structures*, pipes, and/or culverts associated with stormwater conveyances and roadway crossings in *tidal waters* **is** authorized by this General Permit, provided the activity or activities does not cause the **loss of more than 0.25 acre of vegetated tidal waters per stormwater conveyance or roadway crossing**.

Maintenance activities authorized by this General Permit also specifically include, the addition of riprap (or other erosion protection), wing walls, head walls, and/or outfall aprons for stabilization and/or protection of new or existing structures and the removal of accumulated sediments and/or debris from the vicinity of existing *water control structures*, pipes and/or culverts.

There is **no limit per pipe and/or culvert** to the removal of accumulated sediments and/or debris from pipes and/or culverts, provided: **(1)** the removal is the minimum necessary to restore the flow to and from the structure; **AND (2)** the removal area is *un-vegetated waters*. Removal of accumulated sediments and/or debris from pipes and/or culverts from *vegetated waters* is authorized, provided the removal does **not** cause the **conversion of more than 0.25 acre of vegetated waters per pipe and/or culvert**.

Side casting and/or thin layer placement of the excavated/dredged material into jurisdictional waters is **not** authorized by this General Permit. Disposal of the excavated/dredged material must occur in an onsite or offsite upland location. The installation of a *water control structure*, such as a tide gate or flap gate on the end of an pipe and/or culvert to prevent or control the flow of *tidal waters* from entering the pipe and/or culvert **is** authorized by this General Permit, provided *vegetated waters* are **not** located upstream of the activity. Installation of a *water control structure* that prevents or controls the tidal flow from entering a pipe and/or culvert and reaching upstream *vegetated waters* is **not** authorized by this General Permit.

Additionally, temporary and/or permanent flooding or impounding of jurisdictional, *non-tidal waters* that may be present upstream of the *water control structure* as a result of the installation and/or operation of the *water control structure* is **not** authorized by this General Permit.

In addition to the PCN requirements set forth in **Section II below**, the PCN must also include the following additional activity-specific information:

a. Purpose and need of the proposed activity.

b. A compensatory mitigation plan is required for the activities listed below, and/or combination of activities listed below, that result in the *loss* of **more than 0.1 acre of vegetated waters per stormwater conveyance and/or roadway crossing** and/or the *conversion* of **more than 0.1 acre of vegetated waters per stormwater conveyance and/or roadway crossing**. Additionally, a compensatory mitigation plan is required for activities at multiple stormwater conveyances and/or roadway crossings within the *geographic project area* identified in the PCN, that result in the *loss* of **more than 0.1 acre of vegetated waters per stormwater conveyance and/or roadway crossing** and/or the *conversion* of **more than 0.1 acre of vegetated waters**. The activities referenced above include the installation of new, and/or maintenance, repair, replacement and/or extension of existing *water control structures*, pipes, culverts, including the addition of riprap (or other erosion protection), wing walls, head walls, and/or outfall aprons for stabilization and/or protection of new or existing structures, and the removal of accumulated sediments and/or debris from the vicinity of existing *water control structures*, pipes and/or culverts. The mitigation plan should be prepared in accordance with the "Guidelines for Preparing a Compensatory Mitigation Plan", or the most current mitigation requirements, which can be found at <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>. Compensatory mitigation is **not** required for the *loss* of *un-vegetated waters*.

c. Method of removal of accumulated sediment and/or debris and sequencing of how the removal will occur.

d. Acreage impacts of fill and/or removal and cubic yards of fill and/or removal (per existing stormwater conveyance and/or roadway crossing and cumulative if multiple existing stormwater conveyances and/or roadway crossing).

e. Identification of where the removed material and/or debris will be disposed, if applicable. If the removed material and/or debris material will be disposed of onsite or in a non-landfill location, the PCN should include the following information:

- i. Location of the disposal area marked on a location map and the latitude and longitude provided. (NOTE: A jurisdictional determination from the Corps may be necessary).
 - ii. Size and capacity of the disposal area.
 - iii. Description of how the removed material and/or debris will be dewatered and stabilized. Runback into jurisdictional waters is **not** authorized.
 - iv. Plans/drawings for the disposal area.
- f. If the project involves installation of a *water control structure*, the following information should be provided with the PCN:
1. Location map, topographic map, aerial photos, etc. of upstream areas for the location of the proposed *water control structure* should be labeled on the depiction.
 2. If the *water control structure* and/or the operation of the *water control structure*, will result in the interruption of normal tidal flows to upstream areas and/or will temporarily or permanently impound and/or flood, or otherwise hold water in upstream areas, and prevent normal flow from the areas to the downstream tidal waters, for any period of time, a delineation of special aquatic sites in the area that will be directly impounded, flooded, or otherwise impacted by the *water control structure* and/or operation of the *water control structure*, should be included with the PCN. (NOTE: A jurisdictional determination from the Corps may be necessary.)
 2. Drawings of the *water control structure* and a written description of the operation and management of the *water control structure*, including, but not limited to, the following: when will the *water control structure* be “opened” or “closed”, how it will be “opened” and “closed” (i.e. manually or electronically), and who or what entity will be responsible for maintenance and operation of the structure.

II. PRE-CONSTRUCTION NOTIFICATION REQUIREMENTS:

SPECIAL NOTE 4: Section I (Activities Authorized) of this General Permit contains additional activity-specific PCN requirements.

The Pre-Construction Notification (PCN) must be in writing and include the following information:

- 1) Completed “Joint Federal and State Permit Application Form,” which is available on the Charleston District Corps website at <https://www.sac.usace.army.mil/Missions/Regulatory/Permitting-Process/>.
- 2) Depiction identifying the *geographic project area (gpa)* for activities included in the PCN. Refer to the attached **Appendix A** for sample depictions.

3) Proposed project drawings on 8.5" x 11" paper. (Drawings prepared for submittal to OCRM are acceptable and may be used). Generally, the project drawings should include plan views and cross-sectional views that show project details, such as dimensions. Refer to Section IV below for activity-specific details that may need to be included on the project drawings.

4) Avoidance and minimization of proposed project impacts.

5) If the proposed activity involves the use of temporary structures, fills, and work, including the use of wooden or synthetic mats, in *tidal waters*, the PCN should include the following information:

a. A written description and/or drawings depicting the type and location of the proposed temporary activities.

b. Time-frame for the initial construction activity.

c. Time-frame required for the temporary structures, fills, and work, including the use of wooden or synthetic mats to be in *non-tidal waters* and *tidal waters*, including *vegetated* and *un-vegetated waters*. Refer to Section VI.C of this General Permit for time limits of the temporary activities.

d. Specifications of how the pre-construction contours will be re-established and verified after removal.

e. Proposed frequency of maintenance activity (and the need for temporary activities to reoccur) in order to maintain the structure, fill or work.

f. Photographic monitoring plan of site after removal of the temporary structures, fills and/or work and/or after the re-establishment of pre-construction contours. The photographic monitoring should occur for a minimum of 1 year from the date of removal and/or re-establishment of areas AND must include one growing season. The photographic monitoring plan should include photo location points and direction of photos identified on a depiction or drawing. The coordinates of the photo-locations should also be provided. There should be an adequate number of photo locations to accurately document recovery of the impacted areas. Refer to Section VI.A of this General Permit.

g. Adaptive Management Plan describing actions that would be taken to restore the site if the photographic monitoring recovery of the impacted areas does not occur.

6) List of adjacent property owners' names and mailing addresses.

7) List of any other regional general permit(s), NWP(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity.

SPECIAL NOTE 5: Additional information not included in the PCN requirements listed in Section I, Activities A-D, and Section II of this General Permit, may be requested by the Corps on a case-by-case basis to inform the review of the proposed projects.

SPECIAL NOTE 6: Multiple stormwater management activities covered by Section I (Activities Authorized) that occur within a *geographic project area* may be combined and submitted for Corps review in a single PCN.

III. DEFINITIONS:

Conversion: the change from a vegetated water to an un-vegetated water.

Geographic Project Area: the proposed project location of the single or multiple activities authorized by the General Permit. The “geographic project area” may include, but is not limited to, a section of a city, a neighborhood, and/or a river/waterbody(ies) name. (NOTE: Appendix A provides example depictions of “geographic project areas”).

Loss: permanent adverse effects to the tidal waters as a result of the authorized activity.

Maintained stormwater conveyances: those stormwater conveyances and/or drainage ditches that were previously excavated and have been maintained over time so that they still have a visible, defined channel and may be vegetated or un-vegetated.

Mean High Water: the line on the shore reached by the plane of mean high water. The line may be made from observations from physical markings such as debris, lines of vegetation or changes in types of vegetation.

Non-maintained stormwater conveyances: those stormwater conveyances and/or drainage ditches that were previously excavated but have not been maintained over time so that a visible, defined channel is no longer present. Non-maintained stormwater conveyances may have reverted back to vegetated un-vegetated waters.

Non-tidal waters: waters that are not subject to the ebb and flow of the tide.

Tidal waters: those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

Un-vegetated waters: tidal waters that have less than 50% vegetative cover within the footprint of the proposed activity.

Vegetated waters: tidal waters that have 50% or more vegetative cover within the footprint of the proposed activity.

Water Control Structure: a structure that controls the direction of water flow, the rate of water flow, and/or maintains a water surface elevation. Water control structures may consist of tidal flaps, valves, gates, spillway boxes, etc.

IV. SPECIAL CONDITIONS:

- 1) The permittee must implement best management practices during and after all construction to minimize erosion and migration of sediments off site. These practices may include use of devices capable of preventing erosion and migration of sediments in waters of the United States, including wetlands. These devices must be maintained in a functioning capacity until the area is permanently stabilized. All disturbed land surfaces must be stabilized upon project completion. Stabilization refers to the minimization of erosion and migration of sediments off site.
- 2) All wetland and stream crossings must be stabilized immediately following completion of construction/installation and must be aligned and designed to minimize the *loss* of waters of the United States.
- 3) Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering waters of the United States, including wetlands that are adjacent to the authorized activity.
- 4) All excavated/dredged material must be disposed of in an upland location. No runback into jurisdictional waters is authorized by this General Permit. All excavated/dredged material must be contained, dewatered and stabilized in such a way to prevent runback.
- 5) Any excess excavated materials not utilized as authorized back fill must be placed and contained on uplands and permanently stabilized to prevent erosion into jurisdictional waters.
- 6) Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited.
- 7) Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to aquatic resources and the surrounding environment.
- 8) Use of this General Permit does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.
- 9) No activity is authorized by this permit that will cause flooding or ponding of water on property in which the permittee does not have the necessary real estate interest.
- 10) All proposed culverts must be appropriately sized and positioned to meet the requirements of General Conditions O, P and Q for each individual crossing of waters of the United States.
- 11) For activities that include the new construction and/or replacement of culverted road crossings, at a minimum, the width of the base flow culvert(s) shall be approximately equal to the average channel width and will not reduce or increase stream depth. This is a minimum

requirement that does not replace local and State requirements for roadway design.

12) The permittee must comply with all FEMA regulations and requirements. The permittee is advised that the National Flood Insurance Program (NFIP) prohibits any development within a designated floodway within the FEMA Special Flood Hazard Area (SFHA), including placement of fill, without a "No Impact Certification" approved by the local NFIP flood plain manager. The permittee is further advised that development activities in a designated FEMA Special Flood Hazard Area (SFHA) are subject to the floodplain management regulations of the National Flood Insurance Program (NFIP). If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.

V. GENERAL CONDITIONS:

The activities authorized by this General Permit must comply with ALL of the following general conditions:

A. This General Permit authorizes only those activities specifically addressed above in **Section I**. The permittee must obtain Department of the Army authorization, such as a Nationwide Permit or Individual Permit, for all other activities that are regulated pursuant to 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act.

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 and may result in the modification, suspension, or revocation of the General Permit, 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.

D. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to avoid and minimize 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 General 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 finding by the District Engineer that immediate suspension would be in the general public interest or there has been violation of any terms or 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 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 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, the project owner must within sixty (60) days without expense to the United States and in such a 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 work or structure.

H. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; 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.

I. Any activity that may adversely 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 Part 325.

J. Historic Properties.

1. In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
2. Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the proposed activity, or whether additional section 106 consultation is necessary.
3. The PCN must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the

potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places. Based on the information submitted and these efforts, the District Engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the District Engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

4. The District Engineer will notify the prospective permittee whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties.
5. Prospective permittees of this General Permit should be aware that Section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

K. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this General Permit, you must immediately notify the district engineer of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, *structures*, or non-recent (i.e., older than 100 years) vessel ruins.

L. The permittee must notify the South Carolina Institute of Archaeology and Anthropology in accordance with the South Carolina Underwater Antiquities Act of 1991 (Article 5, Chapter 7, Title

54 Code of Laws of South Carolina, 1976) in the event archaeological or paleontological remains are found during the course of the work. Archaeological remains consist of any materials made or altered by man which remains from the past historic or prehistoric times (i.e. older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools human, burials, historic docks, structures or non-recent (i.e. older than 100 years) vessel ruins. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusk, bone or entire skeletons.

M. The District Engineer, at his/her 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.

N. A copy of the project-specific authorization and drawings must be available at the site of the permitted activity during construction.

O. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

P. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

Q. A signed compliance certification will be submitted to the District Engineer within 30 days following completion of the authorized work and shall include the following: A statement that the authorized work was done in accordance with this General Permit and the signature of the permittee certifying the completion of the work.

VI. SPECIAL PROCEDURES

A. If the *tidal waters* area has not recovered from the temporary impacts associated with temporary structures, fills and/or work, including the use of wooden and synthetic mats, after photographic monitoring is complete, adaptive management may be required. Additionally, if frequent maintenance excavation/dredging activities of stormwater conveyances in *tidal waters* are anticipated and those areas impacted by temporary structures, fills, and work, including the use of wooden or synthetic mats, cannot or will not become re-established due to repeated disturbances, these impacts should be included in the PCN and would apply to the 5-acre impact limit for activities within the *geographic project area* identified in the PCN.

B. This General Permit can be used in conjunction with Nationwide Permits or other General Permits wherein the activities authorized by this General Permit are part of a single and complete project that also requires authorization by a Nationwide Permit(s) and/or other General Permit, and the *loss of tidal waters* and/or *conversion of vegetated waters* would be considered cumulative. While this General Permit has a maximum limit to the cumulative *loss of tidal waters* and/or *conversion of vegetated waters* authorized, the prospective permittee should also be aware of authorized impact limits associated with applicable Nationwide Permits and/or General Permits that may also be used to authorize the single and complete project.

C. Temporary structures, fills and/or work, including wooden and synthetic mats, shall be removed immediately upon completion of the work and are authorized for a period of no more than 180 days per activity. Activities that require the use of the temporary structures, fills and/or work, including wooden and synthetic mats for more than 180 days will require Individual Department of the Army authorization from the Corps prior to construction.

VII. PROHIBITED ACTIVITIES:

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

VIII. REQUIRED AUTHORIZATIONS:

Prior to performing any of the work authorized herein, the permittee shall obtain all necessary state permits from the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Management and any other required Federal, State, or local authorizations.

IX. PENALTIES FOR VIOLATIONS:

Authorization obtained under this General Permit limits the size and use of any work or structures. Any deviation from the specifications, or other terms or conditions, of the General Permit shall constitute a violation of Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act, 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.

X. LIMITS OF FEDERAL LIABILITY:

In issuing this General Permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

XI. REVOCATION OF THE GENERAL PERMIT:

This General 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.

XII. 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 General Permit is revoked in the interim. At the end of the first year and every succeeding year, the Corps and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if more than minimal cumulative impacts have resulted. If the District Engineer determines revocation of this General 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 modify, suspend, or revoke this General Permit, as appropriate.

This General 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:

Rachel A. Honderd, PMP
Lieutenant Colonel, U.S. Army
Commander and District Engineer

Date

or an authorized Designee

Travis G. Hughes
Chief, Regulatory Division

Appendix A

Geographic Project Area- Example 1

Example 1 shows a small geographic project area that includes 1 waterway where 1 proposed activity may occur.



Geographic Project Area – Example 2

Example 2 shows a geographic project area that includes one waterway where multiple proposed activities could be included in one PCN.



Geographic Project Area – Example 3

Example 3 shows a geographic project area that includes several waterways where multiple proposed activities could be included in one PCN.

