

PUBLIC NOTICE

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

REGULATORY DIVISION

Refer to: P/N SAC-2019-01904

December 6, 2019

Pursuant to 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 authorizing 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). The General Permit would authorize the discharge of dredged or fill material for various activities in non-tidal wetlands that are adjacent to tidal waters in project sites located within the Coastal Zone which consists of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties. **A copy of the draft General Permit, which includes the details of the various activities that would be authorized by the General Permit, along with special and general conditions of the authorization, is attached to this Public Notice.**

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

January 6, 2020

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

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request for certification that this General Permit will comply with applicable effluent limitations and water quality standards. The work included in the General Permit must also be certified as consistent with applicable provisions of the Coastal Zone Management Program (15 CFR 930). The District Engineer will not process this General Permit to a conclusion until such certification is received.

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 non-tidal substrate adjacent to 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 District Engineer will make the appropriate effects determination on Federally endangered, threatened, or proposed species and designated or proposed critical habitat in accordance with the most current Standard Local Operating Procedures for Endangered Species (SLOPES) for each proposed project that would be authorized by the General Permit.

In accordance with Section 106 of the NHPA, the District Engineer will consult the South Carolina ArchSite (GIS), for the presence or absence of historic properties (as defined in 36 C.F.R. 800.16)(l)(1)), for each proposed project that would be authorized by the General Permit. The District Engineer will evaluate the effects each proposed project will have on historic properties and consult with the State Historic Preservation Office and/or Tribal Historic Preservation Office pursuant to 33 C.F.R. 325, Appendix C, and 36 C.F.R. 800.

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 the General Permit will be based on an evaluation of the probable impact including cumulative impacts of the activities 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. The General Permit will be issued 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 the General Permit. Any comments received will be considered by the Corps to determine whether to issue, modify, or condition the General Permit. 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 to Tracy.D.Sanders@usace.army.mil.

General Permit No.:
Name of Permittee: GENERAL PUBLIC
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) 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

Geographic Criteria: The geographic use of this General Permit is limited to project sites located within the Coastal Zone which consists of Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties.

A. To the extent the above geographic criteria is met (i.e., coastal zone requirements), this General Permit authorizes the discharge of dredged or fill material into non-tidal wetlands that are adjacent¹ to tidal waters² for the activities described in Section I below.

B. To the extent the above geographic criteria *and* Paragraph A. are both met, this General Permit also authorizes the discharge of dredged or fill material into non-tidal waters and wetlands that are NOT adjacent to tidal waters *if* the discharge occurs in the adjacent, non-tidal wetlands within the same project area³ for the activities described in Section I below.

¹ The term "adjacent" for the purposes of this General Permit means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands." (33 CFR 328.3(c)).

² The term "tidal waters" for the purposes of this General Permit means 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 (33 CFR 328.3(f)).

³ The term "project area" for the purposes of this General Permit means the boundary of the parcel, tract, or other defined area in which the proposed project would be located as shown on the project drawings included in the Pre-Construction Notification.

I. ACTIVITIES AUTHORIZED:

1) Utility Line Substations: Construction, maintenance, or expansion of substation facilities associated with a power line or utility line.

2) Utility Line Access Roads: Construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations.

3) Residential Developments: The construction or expansion of a single family residence, a multiple unit residential development, or a residential subdivision, including the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include, but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

4) Commercial and Institutional Developments: The construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

5) Agricultural Activities: Agriculture activities, including the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in waters of the United States, including non-tidal streams⁴; and similar activities; construction of farm ponds in non-perennial streams provided the farm pond is used solely for agricultural purposes. **Note:** Some discharges for agricultural activities may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4). This General Permit authorizes the construction of farm ponds that do not qualify for the Clean Water Act Section 404(f)(1)(C) exemption because of the recapture provision at section 404(f)(2).

⁴ For the purpose of this General Permit, the term “stream” also includes features determined to be a “tributary” and/or a “relatively permanent water.”

6) Reshaping Existing Drainage Ditches: Modification of the cross-sectional configuration of currently serviceable drainage ditches constructed in waters of the United States, for the purpose of improving water quality by re-grading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation. **Note 1**: Compensatory mitigation is not required for re-shaping drainage ditches because the work is designed to improve water quality. **Note 2**: The location of the centerline of the re-shaped drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch.

7) Recreational Facilities: The construction or expansion of recreational facilities. Examples of recreational facilities that may be authorized include playing fields (e.g., football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas, horse paths, nature centers, campgrounds (excluding recreational vehicle parks), and the construction or expansion of small support facilities, such as maintenance and storage buildings and stables that are directly related to the recreational activity.

8) Stormwater Management Facilities: The construction of stormwater management facilities, including stormwater detention basins and retention basins and other stormwater management facilities; the construction of water control structures, outfall structures and emergency spillways; the construction of low impact development integrated management features such as bioretention facilities (e.g., rain gardens), vegetated filter strips, grassed swales, and infiltration trenches; the construction of pollutant reduction green infrastructure features designed to reduce inputs of sediments, nutrients, and other pollutants into waters to meet reduction targets established under Total Daily Maximum Loads set under the Clean Water Act, maintenance of stormwater management facilities, low impact development integrated management features, and pollutant reduction green infrastructure features. **Note**: The maintenance of stormwater management facilities, low impact development integrated management features, and pollutant reduction green infrastructure features that are not waters of the United States does not require a section 404 permit.

9) Multiple Activities: Multiple Authorized Activities, as described in #1-#8 above, can occur within the same project area.

II. AUTHORIZED IMPACTS

1) The discharge must not cause the loss of more than 300 linear feet of ephemeral, intermittent, or perennial non-tidal stream. The discharge must not cause the loss of more than 300 linear feet of stream, unless for intermittent and ephemeral stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in no more than minimal adverse environmental effects.

2) The loss of stream bed plus any other losses to jurisdictional wetlands and other waters of the U.S. caused by this General Permit is limited to a maximum of ½ acre.

3) This General Permit can be used in conjunction with Nationwide Permits or other General Permits for activities that are part of the same project occurring within the same project area. However, the total losses to jurisdictional wetlands and other waters of the U.S. caused by this General Permit in conjunction with Nationwide Permits or other General Permits is limited to a maximum of ½ acre.

III. ACTIVITIES NOT AUTHORIZED:

1) The discharge of dredged or fill material in tidal waters.

IV. USE OF THE GENERAL PERMIT

A Pre-Construction Notification (PCN) must be submitted for all activities authorized in this General Permit prior to commencing work.

V. PRE-CONSTRUCTION NOTIFICATION REQUIREMENTS:

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

1) Completed “Joint Federal and State Application Form for Activities Affecting Waters of the United States or Critical Areas of the State of South Carolina”, which is available on the Charleston District Corps website at <https://www.sac.usace.army.mil/Missions/Regulatory/Permitting-Process/>.

2) A delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site, or an issued or requested Preliminary Jurisdictional Determination (PJD) or an Approved Jurisdictional Determination (AJD). For PCN submittals based on a delineation only and/or PJD, the Corps will determine if the wetlands are considered to be adjacent to tidal waters. If the wetlands are not adjacent to tidal waters, the PCN will be reviewed for potential eligibility by an appropriate Nationwide Permit or other General Permit, or as an Individual Department of the Army permit application. Wetland delineations must be prepared in accordance with the current method required by the Corps. (NOTE: The prospective permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters.) The PCN will not be considered complete until the delineation has been reviewed by the Corps, or the delineation has been completed by the Corps, or the Corps has issued a PJD or AJD. If requesting a delineation only, or a PJD or AJD, a “Request for Corps’ Jurisdictional Determination (JD) and Delineation” form must also be submitted with the PCN. This JD form is available on the Charleston District Corps’ website at the above link.

3) Proposed project drawings on 8.5” x 11” paper. (Larger size paper is acceptable if submitting an electronic PCN).

- 4) A statement demonstrating avoidance and minimization of proposed impacts.
- 5) Onsite alternatives analysis of proposed impacts.
- 6) A conceptual or detailed mitigation plan for activities resulting in a loss of greater than 1/10-acre of wetlands and/or more than 300 linear feet of stream. The conceptual or detailed mitigation plan should follow the latest Charleston District's mitigation requirements and guidelines, which can be found at <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>
- 7) A statement that the work will be conducted in compliance with the terms and conditions of this General Permit.
- 8) 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.

VI. SPECIAL CONDITIONS:

The activities authorized by this General Permit must comply with ALL of the following 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) Any excess excavated materials not utilized as authorized back fill must be placed and contained in uplands and permanently stabilized to prevent erosion into waters of the United States, including wetlands.
- 5) Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited.
- 6) 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.

7) Use of this General Permit does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.

8) 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.

9) 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.

10) 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.

11) 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. 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>.

12) The permittee must comply with all FEMA regulations and requirements. The permittee is 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>.

VII. 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 of this permit. 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/her 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 permittee must within sixty (60) days without expense to the United States and in such a manner as directed by the District Engineer or his/her 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. Any proposed activity that may affect listed species or designated critical habitat, will require consultation with the U.S. Fish and Wildlife Service.

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 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.

VIII. 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.

X. 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.

XI. PENALTIES FOR VIOLATIONS:

Authorization obtained under this General Permit limits the size, length 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 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.

XII. 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.

XII. REVOCAION 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.

XIII. 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 verification 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 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

or an authorized Designee

Travis G. Hughes
Chief, Regulatory Division