

PUBLIC NOTICE

**CHARLESTON DISTRICT, CORPS OF ENGINEERS
1949 INDUSTRIAL PARK ROAD, ROOM 140
CONWAY, SOUTH CAROLINA 29526**

REGULATORY DIVISION
Refer to: P/N # SAC-2016-00761

JANUARY 27, 2021

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), the US Army Corps of Engineers, Charleston District, District Engineer proposes to reissue General Permit # SAC-2016-00761. This permit will be issued to the General Public and authorizes the construction, installation, maintenance, and/or repair of piers, floating docks (including joint use docks and community docks), boat/jet ski lifts, mooring piles, dolphins, covered boat sheds, and dock covers and minor dredging for private, non-commercial uses within

NAVIGABLE WATERS OF THE UNITED STATES

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

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

NOTICE

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

30 Days from the Date of this Notice.

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

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

***NOTE: A copy of the draft General Permit is attached to this Public Notice and contains the general and special conditions of the authorization.**

This public notice is available on the Corps' website at:
<http://www.sac.usace.army.mil/Missions/Regulatory/PublicNotices>

This public notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. 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.

The District Engineer has consulted the most recently available information and has determined that the proposed General Permit is not likely to adversely affect any federally endangered, threatened, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat within the regulatory jurisdiction of U.S. Fish and Wildlife Service. Provisions have been made in the form of general conditions to the proposed General Permit, which should ensure activities covered under the proposed General Permit would have no effect on federally endangered, threatened, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat within the regulatory jurisdiction of the National Marine Fisheries Service. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination or any additional information they may have on whether any listed or proposed endangered or threatened species or designated or proposed critical habitat may be affected by the proposed General Permit, pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended).

In accordance with the National Historic Preservation Act (NHPA), the District Engineer has evaluated the proposed General Permit regarding its potential to effect historic properties (as defined in 36 C.F.R. 800.16)(1)(1)) and has initially determined that there will be no adverse effect on historic properties. Provisions have been made in the form of general conditions to the proposed General Permit, which should prevent any adverse effects to cultural resources. To ensure that historic properties that the District Engineer is not aware of are not overlooked, this public notice also serves as a request to the State Historic Preservation Office (SHPO) and any other interested parties to provide any information they may have with regard to historic properties. This public notice serves as a request for concurrence within 30 days from the SHPO (and/or Tribal Historic Preservation Officer (THPO)).

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this General Permit. 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 of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, or abandon this 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:**

E-mail:

SAC.RD.Conway@usace.army.mil

Standard Mail:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
1949 INDUSTRIAL PARK ROAD, ROOM 140
CONWAY, SOUTH CAROLINA 29526**

If there are any questions concerning this public notice, please contact Ann Eaddy at 843-365-4239 or by e-mail at Ann.W.Eaddy@usace.army.mil.

General Permit No. SAC-GP-(TBD)
Name of Applicant: General Public
Effective Date: TBD
Expiration Date: TBD

DEPARTMENT OF THE ARMY
GENERAL PERMIT

A General Permit to place structures and/or perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby issued by authority of the Secretary of the Army by the

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

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

Projects authorized by this General Permit may also require other state or local authorizations. The installation of structures and dredging activities in state navigable waters are subject to the jurisdiction of the South Carolina Department of Health and Environmental Control (SCDHEC). Projects located within Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties are subject to the South Carolina Coastal Zone Management Plan, which is administered by SCDHEC, Office of Ocean and Coastal Resource Management (OCRM). If the proposed project will occur in the critical area of the above listed counties, then a direct Critical Area Permit will be required from OCRM. Projects located outside of the critical area are also subject to the R. 19-450; Permit for Construction in Navigable Waters (et. Seq., 1976 S.C. Code of Laws, as amended). Activities within the Goose Creek Reservoir must be coordinated with and authorized by the Charleston Water System prior to construction.

SPECIAL NOTES:

In general, applicants should obtain the requisite State authorization from the South Carolina Department of Health and Environmental Control (SCDHEC) for any proposed structure PRIOR to submitting a Pre-Construction Notification (PCN) under this General Permit. In most instances, the dimensions and configuration of a structure receiving State authorization will meet the terms and conditions of this General Permit without a written waiver or special modification. If a State permit has been issued for your structure, please submit a copy of the State permit and authorized plans along with the other documents required in the sections below.

Activities covered under previously authorized General Permits for specific areas do not qualify for this General Permit. Those areas include:

Lake Murray (SAC-2013-00644 through SAC-2013-00656)
Lakes Marion & Moultrie (SAC-2018-01401 through SAC-2018-01410),
Lake Wylie, Fishing Creek Reservoir, Great Falls, Rocky Creek, Lake Wateree, Lake Keowee, Ninety-Nine Islands, and Gaston Shoals (SAC-2013-00657 through SAC-2013-00669),
Lake Hartwell, Lake Richard B. Russell, and Lake J. Strom Thurmond (SAC-2016-00094 through SAC-2016-00106).

I. SPECIAL CONDITIONS:

A. Piers and Floating Docks, Mooring Piles, Dolphins, and Boat Lifts

SPECIAL NOTE: There are 6 categories of Special Conditions:

1. Structures located on or adjacent to a federal channel.
2. Structures located on or adjacent to a federal project.
3. Structures located within all waterways of the eight (8) coastal counties of South Carolina.
4. Structures located in waters designated as Critical Habitat.
5. Structures not located on or adjacent to a federal channel or a federal project.
6. All structures regardless of location.

It is imperative that you read and comply with all terms and conditions. Your structure may fall into multiple categories, such as on a federal channel and within a coastal county. Based on location, all structures must meet the terms and conditions listed below in categories "1", "2", "3", "4", "5" **AND all terms and conditions listed in category "6"**.

1. STRUCTURES LOCATED ON OR ADJACENT TO A FEDERAL CHANNEL:

a. Federal channels include all or portions of the following waterways:

Adams Creek
Ashley River (0.5 mile east of Highway 7 downstream to AIWW)
Atlantic Intracoastal Waterway (AIWW)
Brookgreen Garden Canal
Calabash Creek
Charleston Harbor (including the Cooper River, Town Creek, Shem Creek upstream to Coleman Boulevard, and Mount Pleasant Channel)
Folly River
Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Channel)
Jeremy Creek
Little River Inlet
Murrells Inlet (Main Creek)
Port Royal Harbor
Savannah River (J. Strom Thurmond Dam downstream to Atlantic Ocean)
Shipyard Creek
Town Creek, McClellanville (ie Five Fathoms Creek, AIWW to Bulls Bay)
Village Creek

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

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."

2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM). Distance to the federal channel must be included. Plan view and cross-section diagrams are both required (all diagrams must be drawn to scale or include dimensions of all proposed structures).

3. Plans must include the State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure where it is closest to the federal channel. The plans shall also identify the distance of the proposed structure from the edge of the federal channel.

4. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.

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

1. A statement that the authorized work was done in accordance with this General Permit,

2. The signature of the permittee certifying the completion of work,

3. An as-built survey prepared by a registered land surveyor depicting the proposed structure including State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure where it is closest to the federal channel. The survey shall also identify the distance of the proposed structure from the edge of the federal channel.

d. Structures located on or adjacent to federally authorized waterways shall extend **no closer than eighty feet (80') from the edge of the federal channel**, unless a variance has been granted by the Charleston District. **If located on the Charleston Harbor, Georgetown Harbor, or Port Royal Harbor, the existing setback is 125' from the edge of the federal channel.** A copy of the appropriate Federal Project Channel map can be obtained from our website (<http://www.sac.usace.army.mil>) or by writing to:

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

2. STRUCTURES LOCATED ON OR ADJACENT TO A FEDERAL PROJECT:

a. Federal projects include all or portions of the following waterways:

Buck Creek (Horry County)
Cooper River Rediversion Canal (Lake Moultrie to Santee River)
Eagle Creek (Dorchester County)
Great Pee Dee River including Bull Creek (Highway 1 at Cheraw to intersection with Waccamaw River/AIWW)
Santee River (Lake Marion to Atlantic Ocean)
Sawmill Branch (Dorchester and Berkeley Counties)
Socastee Creek (Horry County)
Waccamaw River (NC/SC state line to AIWW)
Wateree River (Interstate 20 to Congaree River)

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

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."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM). Plan view and cross-section diagrams are both required (all diagrams must be drawn to scale or include dimensions of all proposed structures).
3. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.

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

1. A statement that the authorized work was done in accordance with this General Permit.
2. The signature of the permittee certifying the completion of the work.

A copy of the appropriate Federal Project Channel map can be obtained from our website (<http://www.sac.usace.army.mil>) or by writing to:

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

3. STRUCTURES LOCATED WITHIN ALL WATERWAYS OF THE EIGHT (8) COASTAL COUNTIES OF SOUTH CAROLINA:

- a. Coastal counties include the following:

Beaufort
Berkeley
Charleston
Colleton
Dorchester
Horry
Georgetown
Jasper

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

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."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM).
3. Statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

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

1. A statement that the authorized work was done in accordance with this General Permit.
2. The signature of the permittee certifying the completion of the work.

d. To ensure protection of any threatened or endangered species and designated critical habitat that may be in the vicinity of the project area during construction activities, the Permittee will comply with the following:

1. The permittee shall instruct all personnel associated with the project of the potential presence of and the need to avoid collisions with protected species, which may include but is not limited to West Indian manatee, Atlantic sturgeon, shortnose sturgeon, sea turtles, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale.
2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing protected species, to include manatees, which are protected under the Marine Mammal Protection Act of 1972 and/or the Endangered Species Act of 1973.
3. Any siltation barriers used during the project shall be made of material in which protected species cannot become entangled and must be properly secured, and regularly monitored to avoid protected species entrapment.
4. All vessels associated with the project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
5. If protected species are seen within 100 yards of the active construction area all appropriate precautions shall be implemented to ensure protection of the protected species. These precautions shall include the operation of all moving equipment no closer than 50 feet to a protected species. Operation of any equipment closer than 50 feet to a protected species shall necessitate immediate shutdown of that equipment. Activities will not resume until the protected species has departed the project area of its own volition.
6. Incidents where any individuals of sea turtles, Atlantic sturgeon, shortnose sturgeon, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this DA permit shall be reported to NOAA Fisheries, Office of Protected Species at (727) 824-5312, the SCDNR Hotline at 1-800-922-5431, and the Regulatory Office of the Charleston District of the U.S. Army Corps of Engineers at (843) 329-8044. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected

Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

7. The permittee understands and agrees that all in-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water. Where appropriate, in-water wires should be fitted with a PVC sleeve from the surface to the bottom to prevent any potential scraping of the passing manatees.

e. To ensure protection and reduce construction-related impacts to West Indian manatees that may be in the vicinity of the project area during construction activities performed outside the winter months to discountable and insignificant levels, the permittee will comply with the following for all projects affecting the coastal waters of South Carolina:

1. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel MUST monitor water-related activities for the presence of manatee during May 1 - November 15. Construction personnel are requested to monitor outside of that timeframe as manatees may be in the area before or after the above dates.

2. Any collision with or injury to a manatee shall be reported immediately to U.S. Fish and Wildlife Service contacts: Melanie Olds, South Carolina Manatee Lead, the Charleston Field Office, at 843-727-4707 ext. 205; or Terri Calleson, Manatee Recovery Coordinator, North Florida Field Office, at 904-731-3286.

4. STRUCTURES LOCATED IN WATERBODIES DESIGNATED AS CRITICAL HABITAT:

a. Critical habitat waters include the following:

Pee Dee River (Upper extent is Blewitt Falls Dam (Total River Miles 192))

Waccamaw River (Upper extent is its confluence with Bull Creek (Total River Miles 22))

Bull Creek (Upper extent is its confluence with Pee Dee River (Total River Miles 11))

Black River (Upper extent is US Interstate 95 (Total River Miles 126))

Santee River (Upper extent is Wilson Dam (Total River Miles 71))

Rediversion Canal (Upper extent is St. Stephens Dam (Total River Miles 5))

North Santee River (Upper extent is its confluence with Santee River (Total River Miles 18))

South Santee River (Upper extent is its confluence with Santee River (Total River Miles 17))

Tailrace Canal/West Branch Cooper River (Upper extent is Pinopolis Dam (Total River Miles 18))

Cooper River (Upper extent is the confluence of West Branch Cooper and East Branch Cooper Rivers (Total River Miles 25))

North Fork Edisto River (Upper extent is Cones Pond immediately north of I-20 (Total River Miles 96))

South Fork Edisto River (Upper extent is State Highway 121 (Total River Miles 109))
Edisto River (Upper extent is the confluence of North Fork Edisto and South Fork Edisto Rivers (Total River Miles 101))
North Edisto River (Upper extent is its confluence with the Edisto River (Total River Miles 18))
South Edisto River (Upper extent is its confluence with the Edisto River (Total River Miles 19))
Combahee – Salkehatchie River (Upper extent is the confluence of Buck and Rosemary Creeks (Total River Miles 115))
Savannah River (Upper extent is the New Savannah Bluff Lock and Dam (Total River Miles 210))

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

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."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM).
3. A statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

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

1. A statement that the authorized work was done in accordance with this General Permit,
2. The signature of the permittee certifying the completion of the work,

d. The permittee understands and agrees that pilings will be installed using a water jet or vibratory hammer, to the maximum extent practicable. In the event standard pile driving (impact hammer) is utilized, the permittee understands and agrees that a soft-strike procedure (three strikes at 40%-60% energy level once a minute for 3 minutes) must be conducted prior to beginning pile driving activities and after any pile driving interruptions of more than 30 minutes.

5. STRUCTURES NOT LOCATED ON OR ADJACENT TO A FEDERAL CHANNEL OR A FEDERAL PROJECT:

a. The channelward extension of the structure shall not exceed the lesser of: one-third of the width of the waterbody at mean low water (MLW) on tidal waterbodies or one-third of the width of the waterbody from the ordinary high water mark (OHWM) on non-tidal waterbodies, or the minimum length necessary to accomplish the project purpose provided there is no undue interference with navigation.

b. In situations where the navigable depth is not located in the center of the waterbody, the structure shall not extend further than one-third of the width of the navigable channel.

c. In situations where an existing structure is located across the waterbody from the proposed structure, the channelward extension of the proposed structure shall not extend further than one-fourth of the width of the waterbody at mean low water (MLW) on tidal waterbodies or one-fourth of the width of the waterbody from the ordinary high water mark (OHWM) on non-tidal waterbodies.

SPECIAL NOTE: The term waterbody, for the purposes of this General Permit, is defined as the area measured across the channel from mean low water (MLW) to mean low water (MLW) in tidal areas or ordinary high water mark (OHWM) to ordinary high water mark (OHWM) in non-tidal areas.

6. ALL STRUCTURES REGARDLESS OF LOCATION:

a. Piers, Floating Docks, and Floating Jet Ski Lifts (on both federal and nonfederal channels located outside the SCDHEC OCRM Critical Area) (NOTE: In the SCDHEC OCRM designated Critical Area, the total square footage includes piers, floating docks, floating jet ski lifts, and covered boat lifts):

1. All structures authorized by this General Permit shall be designed, located, and/or operated in a manner not to impede the full and free use by the public of all navigable waters. The following standards for the size of piers, floating docks, and lifts will be followed unless the Corps determines in writing that a larger structure is authorized:

- i. Waterbodies smaller than 20 feet wide, as measured MLW to MLW or OHWM to OHWM, shall be restricted to a fixed or floating structure no greater than 50 square feet;
- ii. Waterbodies between 21 feet and 50 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 120 square feet;
- iii. Waterbodies between 51 feet and 150 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 160 square feet;
- iv. Waterbodies larger than 151 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 600 square feet.

- v. Additional square footage will be allowed for joint use docks above and beyond the size allowed for individual docks, not to exceed two times that allowed in subsections I.A.6(a)(1)(i) through (iv), contingent upon the sharing of the walkway and pierhead.
2. The maximum width for the dock approach (fixed walkway) shall be restricted to four (4) feet unless the Corps determines in writing that a greater width is necessary for safe use or to support a water dependent use that cannot otherwise occur. The dock approach shall also be elevated at least three (3) feet above mean high water (MHW) in tidal waters and at least three (3) feet above the ordinary high water mark (OHWM) in non-tidal waters.
 3. The structure shall be constructed of uniform materials and be structurally adequate and aesthetically compatible with other existing structures.
 4. All wood piles and wooden exterior pile-supported structures must be pressure-treated with wood preservatives in strict compliance with the Registration/Registration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act for use in or above fresh water or marine environments, and in accordance with standards established by the American Wood Protection or evaluation reports issued by the International Code Council Evaluation Service.
 5. Flotation units of floating structures shall be constructed of material which will not become waterlogged or sink when punctured. Styrofoam billets or equivalent must be encapsulated. Barrels or similar devices are not permitted.
 6. The addition of a single-story roof or covering structure over an open-deck pier that does not require the installation of additional pilings is authorized by this General Permit.
 7. Enclosed buildings or other structures are not authorized. Boat lifts, boat sheds, and dock covers are permissible provided that they do not block cross-vision. Storage compartments are permissible.
 8. This General Permit does not authorize the construction of more than one dock per individual parcel.

b. Mooring Piles, Dolphins and Boat Lifts

1. Mooring piles, dolphins, boat/jet ski lifts and covered boat sheds that are associated with a fixed pier or floating dock shall be located no farther channelward than the end of the structure, and no farther than 30 feet from either end of the authorized structure.
2. All mooring structures must be well marked in accordance with US Coast Guard regulations.
3. All wood piles and wooden exterior pile-supported structures must be pressure-treated with wood preservatives in strict compliance with the Registration/Registration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act for use in or above fresh water or marine environments, and in accordance with standards established by the American Wood

Protection or evaluation reports issued by the International Code Council Evaluation Service.

B. Minor Dredging:

1. MINOR DREDGING UP TO 1,500 CUBIC YARDS OF MATERIAL FOR PURPOSES OF NAVIGATION:

a. Minor dredging must be associated with navigation and must be located adjacent to an existing or proposed docking structure.

b. The minor dredging must be a single and complete project and shall be limited to the removal of no more than 1,500 cubic yards of material.

c. The depth of the minor dredging must not exceed the controlling navigational depth of the adjacent waters.

d. This permit does not authorize dredging or the placement of dredge spoil material within wetlands or areas with natural shellfish beds.

e. The dredged material shall be placed in an appropriate upland area and properly contained to prevent any material re-entering the waterbody or entering any other waters of the United States, including wetlands. Treated return water discharging from approved upland CDFs may be authorized under Nationwide Permit No. 16 (Return Water from Upland Contained Disposal Areas). Alternatively, dredged material may be placed in an area specifically authorized by a separate Department of the Army permit.

f. For activities that include mechanical dredging methods, the applicant must submit spoil disposal design plans that will adequately contain and treat the dredged spoil material.

g. For activities that include hydraulic dredging methods, the applicant must submit spoil disposal design plans that will adequately contain the large volumes of water produced by this type of method and will adequately de-water and treat the dredged spoil material.

h. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all minor dredging activities prior to commencement of work**. In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

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."

2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed dredging in tidal areas relative to the mean high water (MHW), mean low water (MLW), and high tide line (HTL), or in non-tidal areas relative to the ordinary high water mark (OHWM). Distance to the federal channel, if applicable, must be included. Plan view and cross-section diagrams are both required (all

diagrams must be drawn to scale or include dimensions of all proposed structures).

3. **For projects located on a federal channel**, plans must include the State Plane Coordinates (NAD 1983) for the waterward corners of the dredge area where it is closest to the federal channel. The plans shall also identify the distance of the proposed dredge area from the edge of the federal channel.

4. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.

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

1. A statement that the authorized work was done in accordance with this General Permit,

2. The signature of the permittee certifying the completion of work,

3. **For projects located on a federal channel**, an as-built survey prepared by a registered land surveyor depicting the proposed structure including State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure where it is closest to the federal channel is required. The survey shall also identify the distance of the proposed structure from the edge of the federal channel.

II. GENERAL CONDITIONS:

A. This General Permit authorizes only those activities and structures specifically addressed above. The permittee must obtain Department of the Army authorization, such as the issuance of an individual permit, for all other activities that are regulated pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act within waters of the United States.

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

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

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

E. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being

performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms 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 a public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under this General Permit shall not be the basis for any claim for damages against the United States.

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

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

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

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

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

L. Any activity that may affect any federally listed threatened or endangered species, a species proposed for listing, or designated critical habitat is NOT authorized by this General Permit. Any

proposed activity that may affect listed species or designated critical habitat, will require consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

M. Historic Properties.

1. Non-federal prospective permittees must submit a Pre-Construction Notice (PCN) to the District Engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, 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 by using the Subscriber View Map of the SCArchSite website or from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places. Additionally, the South Carolina Institute of Archaeology and Anthropology (SCIAA) and/or the Maritime Research Division at SCIAA can be contacted for assistance in determining the location of or potential for archaeological sites or submerged cultural resources. 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.
2. The District Engineer will notify the prospective permittee within 60 days of receipt of a complete PCN 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. If NHPA section 106 consultation is required and will occur, the District Engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 60 days, the applicant must still wait for notification from the Corps.
3. 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.
4. 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.

N. 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 and SHPO 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.

O. The permittee must notify the South Carolina Institute of Archaeology and Anthropology (SCIAA) 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.

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

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

R. The Charleston 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.

S. This General Permit authorizes certain structures to be constructed on/or adjacent to areas subject to a prism and/or disposal easement held by the United States in perpetuity in conjunction with a Congressionally authorized project for the maintenance and improvement of

the federal channel. This General Permit does not convey any property rights either in real estate or material or any exclusive use privileges, nor does it relinquish any right the United States has for the use of its easement or the maintenance and future widening or deepening of the federal channel pursuant to its easement rights.

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

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

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

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

X. The term "community dock", for the purposes of this General Permit, means the structure shall be constructed for the use of those individuals within a specific community and shall provide temporary mooring space only.

Y. Any activity that may affect shellfish aggregations and reefs are NOT authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

Z. Floating docks, including floating jet ski lifts, shall be located in areas of adequate depth to ensure that clearance between the float and the bottom is maintained at all times. In areas where the depth is not adequate to maintain clearance, floating docks shall be fitted with structures (i.e. float stops) that prevent the float from contacting the bottom.

AA. The number of pilings shall be restricted to the least amount possible and distance between pilings should be maximized to the greatest extent practicable.

BB. This General Permit does not authorize any structure to be located within the lands or waters of a Corps of Engineers civil works project authorized for a purpose other than or in addition to navigation.

III. PROHIBITED ACTIVITIES:

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual Department of the Army Permit or Nationwide Permit authorization has been obtained

from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

IV. REQUIRED AUTHORIZATIONS:

- A. Prior to performing any of the work authorized herein the permittee shall obtain the necessary state permits from the South Carolina Department of Health and Environmental Control and any other required Federal, State or local authorizations.
- B. For activities located in the Critical Area, the permittee shall obtain a Critical Area Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.
- C. For activities located outside the Critical Area in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties, the permittee shall obtain a Construction in Navigable Waters Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.
- D. For activities located outside the eight coastal counties listed in IV(C) above, the permittee shall obtain a Construction in Navigable Waters Permit from SCDHEC, Bureau of Water.
- E. Authorization under this permit does not obviate any obligation or responsibility for compliance with FEMA-approved state or local floodplain ordinances or floodplain management requirements. Projects verified for authorization under this permit that include the placement of fill or structures within any portion of the 100-year Floodplain should contact the officials responsible for the local community's FEMA-approved floodplain requirements.

V. PENALTIES FOR VIOLATIONS:

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

VI. REVOCATION OF THE GENERAL PERMIT:

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

VII. DURATION OF THE GENERAL PERMIT:

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State

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

This permit 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 her Designee

Travis Hughes
Chief, Regulatory Division