General Permit No. 2005-14-001

Name of Applicant: S. C. Department of Transportation (SCDOT)

Effective Date: August 1, 2006

Expiration Date: July 31, 2011

DEPARTMENT OF THE ARMY

GENERAL PERMIT

A General Permit to perform work in or affecting waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and/or 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
Charleston District
Corps of Engineers
69-A Hagood Drive
Charleston, South Carolina 29403

to authorize the discharge of dredged and/or fill material, incidental to existing roadway, bridge, and other activities required for the construction, expansion, modification, or improvement of existing linear transportation projects in waters of the United States including "navigable waters of the United States", within the boundaries of the Charleston District in the State of South Carolina. This General Permit authorizes temporary and permanent impacts to waters of the United States, including wetlands. Permanent impacts for a single and complete project authorized by this General Permit are not to exceed: 3.0 acres of freshwater impacts; 0.50 acre of tidal wetland impacts; and/or 300 linear feet of stream. This General Permit is not considered to supersede or otherwise modify applicable Nationwide Permits (33 CFR 330).

This General Permit contains certain limitations intended to protect the environment including natural and cultural resources. However, conformance with the conditions contained in this permit does not necessarily guarantee authorization. In cases where the District Engineer, or his designee, considers it necessary, an individual Department of the Army permit will be required. Construction, dredging, or fill operations not specifically covered under this General Permit are prohibited unless authorized by a separate Department of the Army permit.

I. Definitions:

a. Bankfull – Bankfull corresponds to the discharge at which channel-forming processes, such as forming or removing bars or meanders, is most effective. It is typically associated with the 1.5-year storm event, the "ordinary high water mark", and the elevation on the stream bank where flooding begins in a stable stream system. It can often be identified in the field by the

elevation of the highest depositional feature (e.g., point bars), a recognizable floodplain, or a break in perennial vegetation.

b. Best Management Practices (BMPs) - BMPs are policies, practices, procedures, or structures implemented to minimize the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural. A BMP policy may affect the limits on a development.

c. Eligible Activities - Projects carried out by SCDOT that typically consist of rehabilitation, replacement, refurbishment and/or retrofitting of material and design to bridge structures and box culverts, in such manner as to restore or maintain usefulness, increase safety or extend life of structure or its purpose. These efforts may include placing of riprap (up to 300 linear feet); installing guardrails, pipes and culverts, widening of bridge approach ways (to include relocation of existing access to accommodate guardrails); and paving or repaving of roadway surface. Also included in these activities are improvements to roadway intersections/ interchanges and horizontal and vertical curve improvements where a need has been demonstrated to improve durability, safety, or capacity, and that said improvements would occur essentially on existing alignment, except where minor deviation is allowed to flatten the roadway's horizontal or vertical curvature. Cleaning and repairing of existing outfall and roadway ditches are also included in these activities, as well as shoulder improvements, Bicycle/Pedestrian lane additions, and road widening projects of one to multiple lanes.

d. Ephemeral Stream - Ephemeral streams are streams that flow only in direct response to rainfall or snowmelt and in which discrete periods of flow persist no more than 29 consecutive days per event.

e. Fill Material - Fill material is defined as material placed in waters of the United States where the material has the effect of replacing any portion of a water of the United States with dry land, or changing the bottom elevation of any portion of a water of the United States. Examples of such fill material include, but are not limited to rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States.

f. Independent Utility - A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

g. Intermittent Stream - Intermittent streams are streams that generally have defined natural watercourses that do not flow year around, but beyond periods of rainfall and with greater frequency than similarly located ephemeral streams.

h. Loss of Waters of the US - Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or

below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US.

i. Non-tidal Wetland - A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at item (p) of this section or at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

j. Notification - Process by which the SCDOT notifies District Engineer and appropriate resource and certifying agencies in accordance with Special Condition III b. of its request for authorization under this general permit.

k. Perennial Stream - Perennial streams are streams that flow most of the year in a well-defined channel.

l. Project - A transportation related proposal by S. C. Department of Transportation (SCDOT) funded either with State, Federal, or combination State and Federal funds.

m. Single and Complete Project - The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies. In situations where a linear project crosses the same waterbody at separate and distant locations, each crossing is considered a single and complete project.

n. Stream Bed - A stream bed is the substrate of the stream channel between the ordinary high water marks (33 CFR 328 and 329). The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

o. Tidal Wetland – A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters 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 that rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

p. Wetlands - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, bogs, and similar areas.

II. General Conditions:

a. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations, and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law.

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

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

d. 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.

e. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, 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, and/or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

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

g. SCDOT 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.

h. This general permit does not authorize the interference with any existing or proposed Federal project and SCDOT will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

i. SCDOT must notify the District Engineer if the activity authorized by this General Permit may affect any historic properties listed, or which may be eligible for listing on the National Register of Historic Places. The activity is not authorized until the procedures for the protection of cultural resources (Appendix C to 33 CFR 325) have been completed on the eligible property or structure.

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

k. SCDOT must notify the District Engineer if federally-listed or proposed for listing, endangered or threatened species or designated critical habitat are known to exist in the project vicinity. The activity is not authorized until the District Engineer determines that the requirements of the Endangered Species Act have been satisfied.

l. If the District Engineer, or his designee, determines that Federal threatened or endangered species are known to exist in the project area and that such species or designated critical habitat may be affected by the proposed work, then authorization of that particular project is at the discretion of the US Army Corps of Engineers. Work may not commence until notification by the District Engineer that the requirements of the Endangered Species Act have been satisfied and the activity is authorized.

m. At his discretion, the District Engineer, or his designee, may determine that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual or nationwide permit, whichever is applicable, in accordance with 33 CFR 325 will be available.

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

o. The permittee must make every reasonable effort to conduct the work authorized herein in a manner to ensure that there is no more than a minimal adverse effect on water quality.

p. As determined by the District Engineer, or his designee, there will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

q. All projects authorized under this general permit must be a single and complete project and meet the requirements for independent utility. A project that is determined to be single and complete will not be segmented or "piece mealed" in order to qualify for this general permit.

r. SCDOT is advised that development activities in a 100-year floodplain, as designated in the Federal Emergency Management Agency's (FEMA) Flood Insurance Study Data, are subject to the floodplain management regulations of the National Flood Insurance Program [(NFIP) (44 CFR)]. The NFIP further prohibits any development within a designated floodway, including placement of fill that results in any increase in base flood elevations. SCDOT must also comply with the FEMA-U.S. Federal Highway Agreement on Floodplain Management.

III. Special Conditions:

a. This permit will require appropriate state and federal agency coordination prior to ACOE approval when a project represents an intrusion into designated Outstanding Resource Waters, Wild and Scenic Rivers, Trout Streams listed in State Regulations 61-68 and 61-69, National Estuarine Sanctuary, Designated Shellfish Ground, State Heritage Trust Preserve, State Parks, National Wildlife Refuge, or protected land (previous mitigation/restoration area).

b. All projects eligible under this permit which impact less than or equal to 0.5 acre of jurisdictional wetlands (tidal or freshwater) and less than or equal to 100 linear feet of stream impacts per single and complete project can begin work prior to receiving written approval from the Charleston District, U. S. Army Corps of Engineers (ACOE). However, SCDOT will be required to submit the following information to the ACOE and all appropriate agencies prior to commencement of work:

(1) Jurisdictional Determination (SAC #, approval letter, and map),
(2) Location Map (directions, lat/long),
(3) SHPO concurrence,
(4) Biological Assessment Report
- Federal and State T&E
- Habitat Survey
- The biological assessment and project description will be sent to SCDNR for their review if projects are located in the primary priority areas as identified in Appendix A (Primary Priority Areas)

(5) Impact Assessment Worksheet,

(6) Drawings on 11" x 17" (Cross section, bankfull, Plan view, etc),
(7) Description of Avoidance and Minimization,

- SCDOT will use 2:1 slopes, while maintaining slope stability, to further minimize construction impact. On a case-by-case basis, the ACOE may approve the use of 3:1 slopes without guardrail if it can be demonstrated that the roadway footprint within waters of the U.S. is approximately the same as 2:1 with guardrail.
- SCDOT will examine the reasonableness of roadway shifts (if multilane widening) immediately to either side of the existing roadway to reduce wetland impacts and provide justification there of.

(8) Completed ACOE application,
(9) Mitigation Plan (as defined in (III.q.) or (III.r.)).

c. Projects impacting greater than 0.5 acre of wetlands or greater than 100 linear feet of stream impacts per single and complete project will be required to submit the information described above (III. b.) to the ACOE. However, SCDOT cannot begin work until written approval is received from the ACOE.

d. Construction activities in waters of the US will be minimized to the maximum extent practicable during the months of March, April, May and June because of potential impacts to spawning fishes.

e. 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. Culverts placed in streams must be installed to maintain low flow conditions.

f. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material must avoid and minimize potential impacts to shellfish resources to the greatest extent possible. Activities should occur in areas with the least amount of shellfish or in areas void of shellfish resources, if possible. Direct encroachment on any shellfish beds should be avoided.

g. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

h. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions.

i. Stream channelizing and/or relocation will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. Specifically, necessary stream channelizing and/or relocation will not result in significant differences in channel dimensions within the project limits compared to upstream and downstream dimensions. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

j. Appropriate soil and erosion control methods must be used at all times during construction activities. Prior to the initiation of the project, sediment barriers such as silt fencing, hay bales or other suitable devices must be placed between the adjacent wetlands or waterways and the project construction and staging areas. All erosion control methods must be regularly inspected and maintained in functional order during the course of the project. All exposed soils, either in the project area or staging area must be contained during construction activities and then permanently stabilized upon completion of the project. Once initiated, projects must be carrier to completion in an expeditious manner in order to minimize the period of disturbance. The permittee is encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

k. All steps necessary must be taken to prevent oil, tar, trash, debris and other pollutants from entering adjacent wetlands and/or waterways.

l. When practicable, stream crossings are required to accommodate bankfull flows by maintaining the existing bankfull channel cross sectional area. Flows that exceed bankfull flow must be accommodated by placement of additional culverts above the bankfull elevation.

m. Information pertaining to the project for which a general permit has been applied will be kept for three years after actual construction of the project is finished.

n. Construction activities must avoid encroachment into any wetlands/ stream areas not designated as impact areas.

o. Riparian and emergent vegetation adjacent to right-of-way areas must not be cleared or adversely impacted.

p. SCDOT will mitigate for wetland impacts greater than 0.1 acre at prescribed ratios at the appropriate mitigation banks, given the absence of any reasonable opportunity for on-site mitigation.

q. SCDOT will submit to the ACOE and execute a mitigation plan for all perennial/ intermittent stream impacts greater than 100 linear feet per single and complete project for their review and approval. However, the ACOE has the discretion to request a mitigation plan for stream impacts that they deem significant. The mitigation plan could include onsite mitigation in the form of causeway removal, installation of tidal exchange pipes, flood plain culverts, bank stabilization, instream structures, and/or use of an approved Mitigation Bank. No mitigation will be required for impacts to ephemeral streams.

r. This permit allows for SCDOT to perform stream and wetland restoration activities associated with a proposed mitigation plan. SCDOT will not have to submit for a separate permit for activities in waters of the US associated with the restoration of former waters, the enhancement of degraded tidal and non-tidal wetlands and riparian areas, and the restoration and enhancement of tidal/ non-tidal streams and tidal/ non-tidal open waters. These activities may include installation of ditch plugs, the placement of in-stream habitat structures, modifications of stream bed and/or banks to restore or create meanders, or the creation of riffle and pool stream structures.

IV. Prohibited Activities:

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

V. Penalties for Violations:

Authorization obtained under this General Permit limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of the Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act, and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

VI. Limits Of Federal Liability:

In issuing this 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.

VI. Revocation of the General Permit:

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

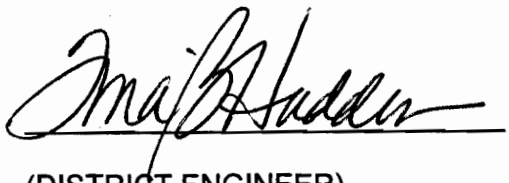
VII. Duration of the General Permit.

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. Revoking the General Permit will not affect work performed in accordance with the conditions stated herein. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

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

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

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



(DISTRICT ENGINEER)

14 Aug 06

(DATE)

or his Designee

Tina B. Hadden
Chief, Regulatory Division