

General Permit No. 2010-01346

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

Effective Date: August 1, 2011

Expiration Date: August 1, 2016

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
U.S. Army Engineer District
Charleston
Corps of Engineers
69a Hagood Drive
Charleston, South Carolina 29403

to authorize the discharge of dredged and/or fill material, incidental to existing roadway, bridge, and other eligible 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 and/or Temporary impacts for a single and complete project authorized by this General Permit are not to exceed: 3.0 acres of freshwater impacts; 0.50 acres of tidal water impacts; and/or 300 linear feet of jurisdictional waters of the United States. 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 mitigate 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. Case by Case Basis- Each General Permit request for a waiver to the limitations of impacts to linear jurisdictional features will be decided by the Corps and will be granted independently of any other General Permit waiver decisions. Specifically, the applicant is cautioned that regardless of similarities between approved General Permit waiver requests and requested waivers where SCDOT is seeking approval (similar project site conditions, similar project impacts, or other similar facts), the granting of a waiver should not be assumed.

d. 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 the placing of riprap (up to 300 linear feet); installing guardrails, pipes and culverts; widening of bridge approaches (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 necessary 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 where additional lanes are added.

e. Fill Material - 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 US Army Corps of Engineers' (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. Loss of Waters of the US- Waters of the US that include filled areas 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.

h. Non-tidal Wetland- A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found 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).

i. Notification - Process by which SCDOT notifies the District Engineer and appropriate resource and certifying agencies of its request for authorization under this General Permit in accordance with Special Condition III d.

j. Project - A transportation related proposal by SCDOT funded either with Federal, State, local or a combination of said funds.

k. 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).

l. Tidal Wetland- A tidal wetland is a wetland 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 the 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.

m. 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. Water quality.

1. 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.
2. 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.

b. Historic properties.

1. In cases where it is determined that the activity may affect properties listed, or eligible for listing on, 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. Applicant must submit a statement to the Corps regarding the authorized activity's potential to cause effects to any historic properties listed, or determined to be eligible for listing on, the National Register of Historic Places, including previously unidentified properties. The statement must say 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 or potential for the presence of historic resources can be sought from the South Carolina Department of Historic Resources and the National Register of Historic Places. Where the applicant has identified historic properties which the proposed activity may have the potential to affect, the applicant shall not begin the activity until notified by the Charleston District that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.
 3. Prospective permittee should be aware that Section 110(k) of the NHPA (16 U.S.C. § 470(h)-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 effects created or permitted by the applicant. If circumstances justify granting the assistance, the Charleston District is required to notify the ACHP and provide documentation specifying the circumstances, explaining 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, State Historic Preservation Officer, Tribal Historic Preservation Officer, 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 legitimate interest in the impacts to the permitted activity on historic properties. If the permittee, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Charleston District of what has been found. Coordination with the South Carolina Department of Historic Resources will commence and the permittee will subsequently be advised when he/she may recommence work.
- c. Endangered species.
1. No activity is authorized which:
 - (i) Is likely to jeopardize the continuing existence of a threatened or endangered species, or species proposed for such designation, as identified under the Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species
 - (ii) "May affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(iii) Involves the “take” of a threatened or endangered species as defined under the ESA without separate authorization (e.g., a Biological Opinion with “incidental take” provisions) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.

2. Applicants shall include, in their permit applications, information regarding the presence of any federally listed threatened or endangered species or designated critical habitat in the vicinity of the project site that might be affected by the proposed work.

d. Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-297; 11 October 1996), requires all Federal agencies to consult with the NOAA Fisheries on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). SCDOT must notify the District Engineer if the activity authorized by this General Permit may impact and/or cause harm to Essential Fish Habitat. The activity is not authorized until the District Engineer determines that the requirements of the Magnuson-Stevens Fisheries Conservation and Management Act have been satisfied.

e. Floodplains. 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.

f. Minimal impacts. 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.

g. Single and complete project. 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.

h. Navigation and riparian access. 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.

i. Navigation. (a) No authorized activity may cause more than a minimal adverse effect on navigation. (b) 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/her 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 Charleston District, 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.

j. Federal projects. 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.

k. Environmental Justice. Activities authorized under this General Permit must comply with Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".

l. Property rights. 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, 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.

m. Inspections. 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. The Charleston District reserves the right to require post-construction engineering drawings and/or surveys of any work authorized by this General Permit, as deemed necessary.

n. Compliance. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit, SCDOT 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/fill.

o. Suspension.

1. 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 g, below and in the institution of such legal proceedings as the United States Government may consider appropriate.
2. 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
 - (i.) the extent of the suspension,
 - (ii) the reasons for this action, and
 - (iii.) 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.

p. Discretionary authority. 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 cases, the procedure for processing an individual or nationwide permit, whichever is applicable, will be available.

q. Special Conditions. The Charleston District may impose other special conditions on a project authorized pursuant to this General Permit that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all general conditions of the authorization, including additional special conditions, constitutes a permit violation and may subject the permittee, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.

r. Other permits. Authorization does not obviate the need to obtain other Federal, state or local authorizations required by law or to comply with all Federal, state, or local laws.

s. Permit on-site. SCDOT will ensure that a copy of the General Permit, the accompanying authorization letter and all approved permit drawings are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of this General Permit.

t. Saved information. 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.

III. SPECIAL CONDITIONS:

a. This permit will require appropriate state and federal agency coordination 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, impaired waters, or protected land (previous mitigation/ restoration area). Detailed project information impacting these sensitive aquatic areas shall be presented at an interagency coordination meeting (or provided directly to appropriate agencies) during the early phases of development. The notification/application, as described in Section III. c. shall contain a summary of the coordination that took place.

b. SCDOT may request a waiver to the limitations of impacts to jurisdictional features established by this General Permit. Waivers will be reviewed on a case by case basis by the Corps and may only be requested for features that are parallel to the road and are relocated channelized streams, man-made conveyances, or man-altered streams. In these cases, features including (but not limited to) all of the following will be considered when the Corps reviews a waiver request:

- Sinuosity
- Aquatic Life (i.e. fish populations, macro invertebrate communities)
- Blue line stream on USGS quad
- Streams depicted on NRCS soils maps
- Riffle-pool complex
- Flow regime

A request for waiver consideration should be requested in a pre-application meeting or concurrently with the pre-construction notification (PCN). When the waiver request is received with the PCN, the Corps may suspend the review of the PCN until a determination is made on whether or not the waiver will be granted. This waiver is not guaranteed and will be either granted or denied by the Corps on a *case by case* basis.

c. All projects eligible under this permit and complying with all general and special conditions which impact less than or equal to 0.5 acres and/or 100 linear feet of **non-tidal freshwater** waters of the United States can begin work prior to receiving written approval from the Charleston District, U. S. Army Corps of Engineers. SCDOT will be required to submit the following information to the Corps and all appropriate agencies concurrent with the commencement of work:

- (1) Jurisdictional Determination (SAC #, approval letter, and map);
- (2) Location Map (directions, latitude/longitude);,
- (3) State Historic Preservation Office (SHPO) concurrence;
- (4) Biological Assessment Report
 - Federal and State Threatened and Endangered Species
 - Habitat Survey
- (5) Essential Fish Habitat (EFH) Assessment and copies of all coordination with NMFS (as appropriate, when there are impacts to EFH);
- (6) Wetland and Stream Impact Assessment Worksheet;
- (7) Proposed Project Plans (cross section, bankfull, plan view, etc). Plans should be reproducible in black and white and on sheets no larger than 11" X 17";
- (8) Description of Avoidance and Minimization of waters of the Unites States
 - To include all on-site measures used to avoid and minimize impacts to wetlands, i.e. reduced side slopes, minimized widths of bike and pedestrian lanes through wetlands, shifts in alignment, reduced medians, etc.
- (9) Completed Corps application (Joint Federal and State Application Form For Activities Affecting Waters of the United States or Critical Areas of the State of South Carolina);
- (10) Mitigation Plan (to comply with the 2008 Mitigation Rule and the 2010 SAC Guidelines for Preparing a Mitigation Plan or the current documents superseding either of these two documents);
- (11) Copy of the approved National Environmental Policy Act (NEPA) document;

(12) Summary and copies of any coordination with resource agencies (as required by Section III.a.)

d. Projects involving impacts to **any tidal waters** of the United States or projects impacting **greater than 0.5 acre and/or 100 linear feet of freshwater waters of the US** will be required to submit the information described above (III. c.) to the Corps prior to the commencement of work. SCDOT cannot begin work until written approval is received from the Corps.

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 to promote aquatic life movement.

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 natural shellfish beds should be avoided.

g. Any projects that involve activities, including structures, excavation, discharges of dredged or fill material, etc. that are proposed in tidal waters require early coordination with NOAA, National Marine Fisheries Service, located in the Charleston Office at 219 Fort Johnson Road, Charleston SC 29412. A detailed summary, EFH assessment and copies of all coordination must be provided as described in Section III. c. 5. SCDOT cannot begin work until written approval is received from the Corps.

h. Activities, including structures and work in freshwater, non-tidal waters of the US or discharges of dredged or fill material in freshwater spawning areas during spawning seasons must be avoided to the maximum extent practicable during the months of February, March, April, May and June. 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.

i. 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. Stream channelizing 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. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

j. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

k. 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.

l. Prior to the beginning of any construction activities, appropriate erosion control measures, such as silt fences, silt barriers or other suitable devices, must be placed between the construction area and affected waterways (wetlands); and maintained in a functioning capacity until the area is permanently stabilized upon completion of the project.

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

n. Once initiated, projects must be carried to completion in an expeditious manner in order to minimize the period of disturbance and upon completion, all disturbed areas must be permanently stabilized with vegetative cover and/or rip-rap, as appropriate. Native vegetation and/or native seed mixtures should be utilized.

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

p. SCDOT will submit a mitigation plan in accordance with the 2008 Mitigation Rule and the 2010 SAC Guidelines for Preparing a Mitigation Plan (or the current documents superseding either of these two documents).

q. This permit allows for SCDOT to perform stream and/or wetland restoration activities associated with a project-specific mitigation plan approved and authorized by the Corps. SCDOT will not have to submit for a separate permit for activities in waters of the U.S. 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 if the work is part of an approved mitigation plan. 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.

r. Construction access areas must be clearly identified in the permit application or, construction access must consist of minimal clearing for installation of elevated working platform(s), timber mat(s) or barge(s). Impacts will be temporary and minor in nature. There will be no mechanized equipment allowed to operate within jurisdictional areas unless it has been clearly identified and authorized in the approved plans. All impacts for construction access count towards the thresholds allowed under this General Permit.

s. Construction activities must avoid encroachment into any waters of the US not designated as impact areas.

t. SCDOT must ensure that the wetland boundaries are clearly identified for the construction contractor; this is to be done to ensure environmental compliance with the approved jurisdictional impacts associated with the authorized permit.

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 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. REVOCAION 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. 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.

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

July 27, 2011

Corps of Engineers
69 A Hagood Ave
Charleston SC 29403

Re: Certification in Accordance with Section 401 of the Clean Water Act, as amended and the Coastal Zone Management Program (48-39-10 et. seq., and 15 CFR 93)

Corps of Engineers
Placement of fill material in wetlands
State Waters
Statewide
P/N GP 2010-01346

Dear Sir or Madam:

The South Carolina Department of Health and Environmental Control (Department) and Ocean and Coastal Resource Management (OCRM) have reviewed plans for this project and determined there is a reasonable assurance that the proposed project will be conducted in a manner consistent with the Certification requirements of Section 401 of the Federal Clean Water Act, as amended, and the Coastal Zone Management Act (48-39-10 et. seq., and 15 CFR 93).

In accordance with the provisions of Section 401, we certify that this project, subject to the indicated conditions, is consistent with applicable provisions of 303 of the Federal Clean Water Act, as amended. We also certify that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307.

This certification is subject to the following conditions:

1. Projects whose primary purpose is to impound water will not be certified under this GP and will be certified under the individual certification process.
2. SCDHEC reserves the right to review and process the application for an individual 401 Certification if it is determined that any designated Outstanding Resource Waters, Impaired Waters, Trout Waters, Shellfish Harvesting Waters, or protected land (including but not limited to previous mitigation/restoration areas) may incur significant adverse impacts as a result of this project.
3. Access to bridge construction sites must be attained from highland, from the portion of the bridge already completed (end on end construction) or from temporary work trestles, floating barges or mats instead of barge canals or causeways.

4. Bridge scupper drains must not be placed directly over the waterbody, if practical. Additionally, drains must be placed at an appropriate distance apart as design criteria allow.
5. For projects potentially impacting impaired waters, ORW, trout waters, shellfish harvesting waters and other sensitive waters, the SCDOT must implement appropriate best management practices and post construction stormwater treatment to provide a reasonable assurance that the proposed project will not contribute to impairments or degrade water quality. A stormwater management plan must be submitted in accordance with requirements of the SCDOT MS4 NPDES Stormwater Permit.

The Department reserves the right to impose additional conditions on this Certification to respond to unforeseen, specific problems that might arise and to take any enforcement action necessary to ensure compliance with State water quality standards.

Sincerely,



Heather Preston, Director
Division of Water Quality
Bureau of Water

cc: U.S. Army Corps of Engineers,
Charleston District Office
SC DHEC, All EQC Office District Office
OCRM