DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 199602878
Name of Permittee: General Public
Effective Date: May 5, 2005
Expiration Date: December 31, 2010

DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 1344) and Section 404 of the Clean Water Act (33 U.S.C. 1344) is hereby issued under the authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE MAINTENANCE DREDGING WITHIN FEDERALLY AUTHORIZED NAVIGATION CHANNELS AND THE DISCHARGE OF EXCAVATED AND/OR FILL MATERIAL WITHIN FEDERALLY APPROVED CONFINED UPLAND DISPOSAL AREAS OR, IN THE CASE OF BEACH QUALITY SAND, FEDERALLY AUTHORIZED BEACH RETENTION AREAS OR FEDERALLY AUTHORIZED BEACH RENOURISHMENT PROJECT AREAS IN THE STATE OF NORTH CAROLINA.

1. Special Conditions

a. Written confirmation that the proposed work complies with this general permit must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee must furnish the following information for review and approval to the Wilmington District, Corps of Engineers:

(1) The name, address, and telephone number of the sponsor and/or other individuals responsible for the work.

(2) A map showing the location(s) of the work.

(3) Appropriate, written permission of owner(s), leaseholder(s) or others having any rights regarding properties affected by the proposal.

(4) Plans of the work at an acceptable scale (on 8-1/2 inch by 11-inch paper) showing the location and dimensions of the Federal channel before and after the work, location and size of any borrow area and the location and size of the retention area.

(5) Quantity (cubic yards) and composition (percentage of fines and/or sand grain size) of excavated and/or fill material.

(6) A description of the methods, procedures, and equipment to be used to perform the proposed work.

(7) Approximate commencement and completion dates of the proposed work.

(NOTE: Confirmation that the work is authorized will be provided to the permittee after the Wilmington District's Regulatory and other appropriate District elements have coordinated and agreed with the validity of the proposal. To minimize adverse impacts on fish, wildlife and natural environmental resources, the Wilmington District Engineer, in close coordination with appropriate State and Federal agencies, will insure that all work is conducted in strict accordance with the special and general conditions of this permit and any appropriate recommendations from State/Federal resource agencies. Failure to comply with any condition or specific recommendation will result in an immediate order to cease operations.)

b. No work may occur during times (seasonal restrictions) designated by the North Carolina Division of Coastal Management, the North Carolina Division of Marine Fisheries, the U.S. Fish and Wildlife Service, and/or the National Marine Fisheries Service for protection of fish, shellfish, or wildlife resources. The permittee must not commence work until written confirmation is received from the District Engineer as to when the work may begin and must be completed.

c. Excavation and/or filling of jurisdictional wetlands or submerged aquatic vegetation (SAV) beds is not authorized by this general permit. Excavation activities occurring near jurisdictional wetlands must allow for an adequate buffer, not less than 10 feet, between the excavated area and the wetland to prevent erosion of the wetland.

d. Dredged and/or fill material may not be placed within beach nourishment areas unless the Corps has determined, in writing, that the material is compatible, to the extent feasible, with the receiving beach in terms of grain, size, color, and any other significant factors.

e. Unless specifically approved for beach nourishment or beach disposal, all excavated material must be placed and retained in a Corps approved upland disposal area.

f. Prior to commencing work the permittee must present the District Engineer with a written preliminary determination providing reasonable assurance that the proposed discharge is

not a carrier of contaminants. This documentation must be a comprehensive analysis of all existing and readily available information on the proposed discharge. Work may not proceed until the permittee has received written approval from the District Engineer.

g. Maintenance excavation must not exceed the federally authorized dimensions of the Federal channel.

h. No excavation is authorized in primary nursery or prime shellfish areas as designated by the North Carolina Division of Marine Fisheries.

i. All fill material used for dike construction or repair will be obtained from an upland source.

j. Should the activity involve the removal of material from a Corps of Engineers retention area, the permittee shall not damage or destroy dikes or spillways. The permittee will be responsible for any necessary repairs.

k. Should all or part of any proposed work be located within an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a CAMA permit or separate consistency determination will be required from the North Carolina Division of Coastal Management.

l. Return water from upland, contained disposal areas must comply with Water Quality Certification No. 3494, issued by the North Carolina Division of Water Quality (NCDWQ) on December 31, 2004. Water Quality Certification for the discharge of beach quality sand in waters of the United States will be obtained prior to any commencement of such work.

2. General Conditions

a. Except as authorized by this general permit or any USACE approved modification to this general permit, no excavation, fill or mechanized land-clearing activities shall take place within waters or wetlands, at any time in the construction or maintenance of this project. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

b. Authorization under this general permit does not obviate the need to obtain other federal, state, or local authorizations.

c. All work authorized by this general permit must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Quality.

d. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

e. The activities authorized by this general permit must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for a reason other than safety.

f. 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.

g. The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct.

h. The permittee will allow the Wilmington District Engineer or his representative to inspect the authorized activity at any time deemed necessary to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

i. This general permit does not grant any property rights or exclusive privileges.

j. This permit does not authorize any injury to the property or rights of others.

k. This general permit does not authorize the interference with any existing or proposed federal project.

l. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) 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.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

m. Authorization provided by this general permit may be modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting for the Secretary of the Army, determines that such action would be in the best public interest. The term of this general permit shall be five (5) years unless subject to modification, suspension or revocation. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the United States Government.

n. This general permit does not authorize any activity that the District Engineer determines, after any necessary investigations, would adversely affect:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act and wild, scenic and recreational rivers established by state and local entities.

(2) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

o. This general permit does not authorize any activity that will adversely affect any threatened or endangered species or a species proposed for such designation, or their designated critical habitat as identified under the Federal Endangered Species Act (16 U.S.C. 1531). Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the Corps field offices or at the following internet address: http://www.ncnhp.org/Pages/heritagedata.html. or http://nc-es.fws.gov/es/es.html. Permittees should notify the Corps if any listed species or designated critical habitat might be affected by the proposed project and may not begin work until notified by the Corps that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

p. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program that prohibits any development, including fill, within a floodway that results in any increase in base flood elevations. This general permit does not authorize any activity prohibited by the National Flood Insurance Program.

q. The permittee must install and maintain, at his expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on authorized facilities. For further information, the permittee should contact the U.S. Coast Guard Marine Safety Office at (910) 772-2191.

r. The permittee must maintain any structure or work authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized by this permit will automatically transfer this permit to the property's new owner, with all of the rights and responsibilities enumerated herein. The permittee must inform any subsequent owner of all activities undertaken under the authority of this permit and provide the subsequent owner with a copy of the terms and conditions of this permit.

s. At his sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific proposal. In such case, the procedures for processing an individual permit in accordance with 33 CFR 325 will be available.

t. Except as authorized by this general permit or any USACE approved modification to this general permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

u. Except as authorized by this general permit or any USACE approved modification to this general permit, all excavated material will be disposed of in approved upland disposal areas.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Charles R. Alexander, Jr.
Colonel, U.S. Army
District Engineer