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

General Permit No. 198200277
Name of Permittee: General Public
Effective Date: July 18, 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. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby renewed and modified by 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 WITHIN THE STATE OF NORTH CAROLINA, THE DREDGING AND THE DISCHARGE OF DREDGED OR FILL MATERIAL INCLUDING THE CONSTRUCTION AND BACKFILLING OF BULKHEADS WITHIN MANMADE BASINS AND CANALS LOCATED ENTIRELY IN UPLANDS AND TO AUTHORIZE MAINTENANCE DREDGING OF DITCHES, BASINS, CANALS AND CHANNELS IN OPEN WATER AREAS, WHERE ALL EXCAVATED MATERIAL IS PLACED AND RETAINED ENTIRELY ON HIGH GROUND.

Special Conditions

a. Any excavation authorized by this general permit, new or maintenance, may involve no more than 1,000 cubic yards of material as part of a single and complete project.

b. This general permit does not authorize the excavation of or discharge into Department of the Army jurisdictional wetlands, seagrasses or other submerged aquatic vegetation. Excavation near wetlands must allow for an adequate buffer (not less than 15 feet) between the excavated area and the wetlands to avoid erosion of the wetlands.

c. Bulkhead placement must not exceed an average of 5 feet nor a maximum 10 feet waterward of the mean high water mark (MHWM) in tidal waters or the ordinary high water mark (OHWM) or ordinary high water elevation contour in non-tidal waters.

d. This permit does not authorize the placement of bulkheads or riprap material waterward of jurisdictional wetlands, seagrasses, or other SAV's

e. All excavated material must be placed and retained entirely on high ground landward of the Corps of Engineers' regulatory jurisdiction and must be retained and stabilized to prevent any material from reentering jurisdictional areas.

f. This general permit does not authorize the excavation or discharge of material which contains toxic pollutants in toxic amounts as identified pursuant to Clean Water Act Section 307. Prior to commencing work, the permittee must review all existing and readily available information to ensure, to the extent practicable, that such pollutants are not present.

g. Maintenance excavation must not exceed the original dimensions as defined by the original permit or as clearly shown or otherwise defined by existing conditions of the ditches, basins, canals, or channels. Maintenance excavation is allowed only for facilities that are currently serviceable.

i. The excavation depth in inland canals or basins, located entirely in high ground, is limited to the more shallow of the depth of the connecting canals/channels or six (6) feet below mean or ordinary low water.

j. No excavation or filling may occur during applicable moratorium times as designated by the North Carolina Division of Coastal Management or the North Carolina Wildlife Resources Commission for protection of fish, shellfish.

k. This general permit does not authorize excavation or filling in any area designated by the North Carolina Division of Marine Fisheries and/or the North Carolina Wildlife Resources Commission as primary nursery area or prime shellfish area.

l. Should all or part of a proposed development activity be located in an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a Coastal Area Management Act (CAMA) permit is required from the North Carolina Division of Coastal Management before the onset of the proposed activity. Should a Federal activity within any one of North Carolina's twenty coastal counties or which could affect a coastal use or resource in any one of North Carolina's twenty coastal counties be proposed by a Federal agency, a consistency determination pursuant to Subpart "C" of 15 CFR 930 must be prepared and submitted by that Federal agency to the North Carolina Division of Coastal Management before the onset of the proposed activity.

m. Activities in any mountain trout waters must comply with all pH, temperature and turbidity criteria established for such waters by the North Carolina Wildlife Resources

Commission and/or the North Carolina Division of Water Quality. Work that may result in the sedimentation of trout waters will generally be prohibited from November 1 to April 15, of any year, to avoid impacts on trout spawning.

n. Permittees shall obtain a letter of approval from the North Carolina Wildlife Resources Commission and furnish a copy of the letter to the Wilmington District Corps of Engineers, prior to discharging dredged or fill material into waters of the United States, including wetlands, in the twenty-five (25) mountain counties of North Carolina that contain trout waters. To obtain this approval, applicants should contact:

North Carolina Wildlife Resources Commission
Habitat Conservation Program Manager
512 North Salisbury Street
Raleigh, North Carolina 27611
Telephone (919) 733-7638

The counties in which this condition applies are:

Alleghany	Ashe	Avery
Buncombe	Burke	Caldwell
Cherokee	Clay	Graham
Haywood	Henderson	Jackson
Macon	Madison	McDowell
Mitchell	Polk	Rutherford
Stokes	Surry	Swain
Transylvania	Watauga	Wilkes
Yancey		

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, restore the affected water of the United States to its former conditions.

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, which 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, which 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:

John E. Pulliam, Jr.
Colonel, U.S. Army
District Engineer