

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

General Permit No. 199200297  
Name of Permittee: United States Forest Service and the North Carolina Division of  
Forest Resources  
Effective Date: February 14, 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 modified and renewed by authority of the Secretary of the Army by

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

TO AUTHORIZE THE DISCHARGE OF DREDGED OR FILL MATERIAL WITHIN NON-TIDAL WATERS OF THE UNITED STATES IN THE STATE OF NORTH CAROLINA ASSOCIATED WITH FOREST MANAGEMENT AND WILDFIRE CONTROL AND SUPPRESSION AS FOLLOWS:

WHEN PERFORMED BY THE US FOREST SERVICE OR THE NORTH CAROLINA DIVISION OF FOREST RESOURCES OR WHEN CONDUCTED ON FEDERAL OR STATE OWNED PROPERTY, AUTHORIZED ACTIVITIES INCLUDE:

1. The discharge of dredged or fill materials associated with the discing of soils for maintaining currently serviceable firebreaks and for creating new firebreaks when the new firebreak is recommended by the North Carolina Division of Forest Resources or the United States Forest Service as part of an approved forest management plan.
2. The discharge of dredged or fill material associated with activities conducted for the purpose of training forest fire equipment operators.

3. The discharge of dredged or fill material associated with continuing ongoing, site-specific, wildlife management activities, not exempted by 33 CFR 323.4, where discing and/or other discharges are used to manipulate habitat and feeding areas for native species of fauna and flora.

OTHER AUTHORIZED ACTIVITIES INCLUDE:

4. The discharge of dredged or fill materials associated with the use of a fire plow for the purpose of wild-fire control during emergency wild-fire fighting situations.

Special Conditions.

- a. Activities conducted under the authorization of this general permit shall in no way promote or facilitate drainage of any area of waters of the United States.
- b. The responsible agency must receive written concurrence from the Wilmington District Corps of Engineers prior to conducting training activities on privately owned properties, that the proposed training is necessary and cannot practicably be performed on Federally or State owned property\*. This concurrence may be obtained by submitting the following information to the appropriate Corps Regulatory Field Office:
  1. Name, address and telephone number.
  2. Location of work, including waterbody, nearest community and county.
  3. Characteristics of work including maps showing proposed training area, training schedule, description of work to be performed and information supporting the need for conducting the activity at the proposed location.

\* The responsible agency may request a single concurrence for multiple training activities and/or events on a particular tract.
- c. All permittees conducting emergency wild-fire fighting activities under the authority of this general permit shall, within 30 days of completion of the activity, notify the Wilmington District Corps of Engineers and undertake any restoration of preconstruction contours determined by the District Engineer to be necessary and feasible.
- d. Permittees, prior to conducting any work within an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, must contact the North Carolina Division of Coastal Management and receive any necessary authorizations. Federal agencies proposing to work on federal lands 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 should submit to the North

Carolina Division of Coastal Management, a consistency determination pursuant to Subpart "C" of 15 CFR 930.

e. Permittees must, for all work not associated with emergency wild-fire fighting, maintain a minimum 100-foot wide vegetated buffer on all streams classified by the North Carolina Wildlife Resources Commission as *Designated Public Mountain Trout Waters* and a 50-foot wide vegetated buffer on all other open water bodies including streams.

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 conducted under the authority of this RGP must comply with Water Quality Certification Number 3491 issued by the North Carolina Division of Water Quality on December 31, 2004.

d. The permittee shall employ all sedimentation and erosion control measures considered by the Corps to be necessary and appropriate 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.

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 shall notify the Corps if any listed species or designated critical habitat might be affected by the proposed project and, for work not directly associated with emergency wild-fire fighting, 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.

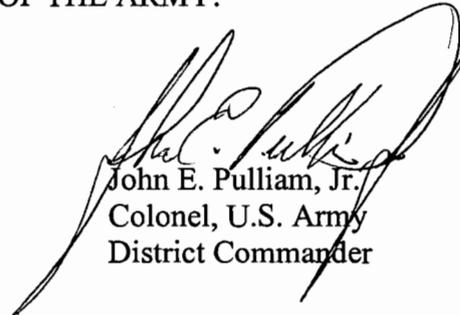
r. The permittee must maintain any structure or work authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized 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 Commander