



September 29, 2021

Ray Funnye
Georgetown County
2236 Browns Ferry Road
Georgetown, SC 29440

RE: Tony Drive, Georgetown County
NPDES Coverage Number: SCR10Z91C

Dear Ray Funnye:

The Department of Health and Environmental Control (Department or DHEC) has approved the Stormwater Pollution Prevention Plan (SWPPP) for the referenced project on **September 29, 2021 WITHOUT REVIEW**. Based on your submission of the Notice of Intent (NOI) and in accordance with the NPDES General Permit for Stormwater Discharges from Construction Activities (CGP), this project has been granted coverage under the CGP. This project's general permit coverage number is **SCR10Z91C**. The total disturbed area for this site is **1.42 acres**.

Additional sets of final plans must be provided to the Department so that stamped, final plans are available for use on site, as required by the CGP.

See attached DHEC Office of Ocean and Coastal Resource Management (DHEC-OCRM) certification dated September 27, 2021 for additional conditions related to the Coastal Zone Consistency determination.

The CGP can be downloaded at the following website: <http://www.scdhec.gov/Environment/docs/CGP-permit.pdf> or you may request a copy from us via email (stormwatercgp@dhec.sc.gov). You are responsible for ensuring your contractor(s) complies with the approved SWPPP and the minimum requirements of the CGP. Also, you are responsible for overall compliance with the Storm Water Management and Sediment Reduction Act of 1991 (1991 Act), SC Pollution Control Act, and the Federal Clean Water Act (CWA). Failure to comply with the approved SWPPP or applicable statutes and regulations may result in enforcement actions.

You must notify the local DHEC EA office prior to starting any land-disturbing activity. The address and telephone number are as follows:

Pee Dee EA Myrtle Beach
927 Shine Avenue
Myrtle Beach, SC 29577
843-238-4378

Inspections of this site must be performed by qualified personnel as described in Section 4.2.E of the CGP.

You should be aware that this approval is only applicable for the SWPPP that was submitted for this project. Any additional construction or land disturbing activity beyond the scope of the approved plans is not authorized. Any future work for this project not shown on the stamped, approved plans will require that you

submit another site plan for review and approval. All major modifications require review and approval by the Department. Minor modifications to the approved SWPPP may be made by the SWPPP preparer and do not require review and approval by the Department; these changes should be signed and dated by the SWPPP preparer. If you have a question about whether a modification is major or minor, contact the Coastal Stormwater Permitting Section at (843) 953-0200.

A copy of the stamped, approved SWPPP (including a copy of the CGP, contractor certifications, inspection records, rainfall data, etc.), NOI, and CGP coverage letter from DHEC must be retained and available at the construction site (or accessible within 30 minutes during normal business hours) from the date of commencement of construction activities to the date of final stabilization. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

All contractors who will conduct land-disturbing activities at the site must complete a Contractor Certification Form. You are also responsible for listing all contractors in the SWPPP and for holding a pre-construction conference with each contractor before they can conduct land-disturbing activity at the site.

The Department may conduct periodic inspections of your site. Any violations found during these inspections may result in enforcement action.

This NPDES coverage should be terminated by the permittee when the conditions listed in Section 5.1 of the CGP have been met. You must submit a Notice of Termination (NOT) to cancel your NPDES coverage under the CGP. Please see section 5.1 of the CGP for additional information required to be submitted with the NOT.

You are responsible for obtaining any other federal, state, or local permit that may be required for this project. In particular, any permits through the U.S. Army Corps of Engineers for the placement of fill material in Waters of the United States. Please note we have not sent a copy of this letter to any county or city building official. You must send a copy of this letter to these agencies, if necessary.

If material excavated during construction activities leaves the site, a mine operating permit may be needed. You are responsible for contacting the Mining and Reclamation Section to determine if a mining permit is required for the site. The Mining and Reclamation Section can be reached at (803)898-1362 or via e-mail at AskMines@dhec.sc.gov.

Please see the enclosed "Guide to Board Review" document for information about the procedures for appealing this NPDES coverage.

If you have any questions or cannot access the referenced websites, please call me at 843-953-1594.

Sincerely,

Mallory C. Ware Digitally signed by
Mallory C. Ware
Date: 2021.09.29
11:37:01 -04'00'

Mallory C. Ware
Coastal Stormwater Permitting Section

EC: Andrew Smyre, Davis and Floyd Inc.
Shauna Stevens, Pee Dee EA Myrtle Beach



NOTICE OF INTENT (NOI)
For Coverage(s) of Primary Permittees
Under South Carolina NPDES General Permit
For Stormwater Discharges From Construction Activities SCR100000
 (Maintain As Part of On-Site SWPPP)

For Official Use Only

File Number: _____
 Permit Number: SCR10 _____
 Submittal Package Complete: _____

Submission of this Notice of Intent constitutes notice that the Applicant identified in Section II intends to be authorized as a Primary Permittee in the state of South Carolina under NPDES General Permit SCR1000000. Fees required for review and NPDES coverage of each application type are as listed on page 2 of the Instructions.

SCR10Z91C

09/29/2021

Mallory C. Ware Digitally signed by Mallory C. Ware
Date: 2021.09.29 11:26:51 -0400

By Default Without Review

Date: 09/13/2021
 Project/Site Name: Tony Drive County: Georgetown
 (Modification or Change of Information Only) Prior Approved NPDES Permit or File Number: _____

Do you want this project to be considered for the Expedited Review Program (ERP)? Yes or No (See instructions)

I. Notice of Intent (NOI) Application Type(s)

- A. **Project (Application/Review) Type(s)** (Select **ALL** that apply):
 New Project (Initial Notification) Ongoing Project: Permitted or Un-Permitted
 Late Notification Low Impact Development (LID) or Project Design Above Regulatory Requirements
 New Owner/Operator or Company Name Change (see instructions, attach Form A (Transfer of Ownership))
 Major Modification: (see instructions, attach Form B (Major Modifications))
 MS4 Project Review
 Ocean and Coastal Resource Management (OCRM) Review
 Change of Information/Other (Specify): _____
- B. If Applicable, identify the entity designated as **MS4 Reviewer and MS4 Operator** (i.e., Lexington County, City of Greer, etc.): MS4 Reviewer _____ MS4 Operator _____

II. Primary Permittee Information Change of Information

Person or Company If a Company, are you a Lending Institution or Government Entity?
 Company EIN (if applicable): EIN: _____

- A. **Primary Permittee Name:** Georgetown County
 Mailing Address: 2236 Browns Ferry Road City: Georgetown State: SC Zip: 29440
 Phone: 843-545-3460 Fax: 843-545-3460 Email Address: rcfunnye@gtcounty.org
- B. **Contact /ODSA Name** (If different from above OR if owner is a company): Jacob Nesmith
 Mailing Address: 2236 Browns Ferry Road City: Georgetown State: SC Zip: 29440
 Phone: 843-545-3438 Fax: 843-545-3486 Email Address: jnesmith@gtcounty.org
- C. **Property Owner Name** (If different from above): _____
 Mailing Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email Address: _____

III. Comprehensive Stormwater Pollution Prevention Plan (C-SWPPP) Preparer Information Change of Information

- A. **C-SWPPP Preparer Name:** Andrew Smyre
- B. **Registered Professional:** Engineer Landscape Architect Tier B Land Surveyor **S. C. Registration #:** 35794
- C. **Company/Firm Name:** Davis and Floyd, Inc. **S. C. COA #:** 00538
 Mailing Address: 3229 West Montague Ave. City: North Charleston State: SC Zip: 29418
 Phone: 843-554-8602 Fax: 843-747-6485 Email Address: asmyme@davisfloyd.com

IV. Project/Site Information Change of Information

- A. **Type of Construction Activity(ies)** (Select **ALL** that apply):
 Commercial Industrial Institutional Mass Grading Linear Utility/Infrastructure
 Residential: Single-family Residential: Multi-family Multi-use (Commercial & Residential)
 Site Preparation (No New Impervious Area) Other (Specify) _____
- B. **Site Address/Location** (street address, nearest intersection, etc.) Tony Drive at Oatland Road (S-22-565)
 City/Town (if in limits): _____ Zip Code: 29440
 Latitude: 33 ° 30 ' 10 " N Longitude: - 79 ° 20 ' 41 " W (Source): GPS Web Site: Google Earth
Tax Map Number (s) (List all): SCDOT and Georgetown County Right-of-Way

- C. Is this site located on Indian Land? Yes No
- D. Proposed Start Date: 12/01/2021 Proposed Completion Date: 12/01/2022
- E. Disturbed Area (nearest tenth of an acre): 1.42 Total Area (acres): 2.27
- F. Modification Only:(nearest tenth of an acre): Disturbed Area: Current (Approved) Area: _____
Disturbed Area Change (Increase Only): _____ Total Disturbed Area (After Change): _____
- G. Is this project part of a Larger Common Plan for Development or Sale (LCP)? Yes No
LCP/ Overall Development Name: _____ Check here if this is the First Phase.
Previous State Permit/File Number: _____ Previous NPDES Coverage Number: SCR10 _____
- H. Any Flooding Problems exist downstream of or adjacent to this site? Yes No (If yes, provide detailed description of flooding problems and applicable floodway/flood zone information in the C-SWPPP).
- I. Active S.C. DHEC Warning Notice, Notice to Comply or Notice of Violation for this site or LCP? Yes No
- J. List Relevant State and Federal Environmental Permits or Approvals applied for or obtained for this site (e.g., RCRA, USACOE, Nationwide, etc.). If None, list None.
USACOE Nationwide Permit
- K. Any Waiver(s)/Variances/Exceptions Requested for this Project? (If yes, identify below and include Waiver Request and Justifications in the C-SWPPP for each proposed request).
- | | |
|--|---------------------------|
| 1. Small Construction Activity Waiver(s) From NPDES permitting (Section 1.4 & Appendix B)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| If yes, Identify requested waiver: <input type="checkbox"/> Rainfall Erosivity Waiver <input type="checkbox"/> TMDL Waiver <input type="checkbox"/> Equivalent Analysis Waiver | |
| 2. Detention Waiver (72-302(B))? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 3. Other (Specify): _____ |

V. Waterbody Information (Attach additional sheet(s) as needed) Change of Information

A. Receiving Waterbody(s) (RWB) Information (List the nearest and next nearest receiving waterbodies to which the sites stormwater discharges will drain. If stormwater discharges drain to multiple waterbodies, list all such waterbodies).

1. Name of Receiving Waterbodies (RWB)	2. Distance to RWB (feet)	3. Classification of RWB
a. Nearest: <u>Unnamed Tributary to Boheck Creek</u>	200	FW
b. Next Nearest: <u>Boheck Creek</u>	300	FW
c. Coastal Zone ONLY: Coastal Receiving Water (CRW): <u>Boheck Creek</u>	300	Not Applicable
d. Other Waterbodies: <u>Black River</u>	8000	FW-SP

B. Waters of the U.S. / State Information (Attach additional sheet(s) as needed)

Waters of the U.S./ State	1. On the site?	2. Delineated/ Identified?	3. Impacts?	4. Amount of impacts
a. Jurisdictional wetlands	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	.004 Ac
b. Non-jurisdictional wetlands	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	___ Ac
c. Other Water(s): _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	___ Ac ___ Feet
d. Coastal Zone ONLY: <u>Direct Critical Area</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	___ Ac ___ Feet

5. If yes for impacts in B.3, describe each impact and activity, and list all permits (e.g., USACOE Nationwide Permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact:
0.003 Ac fill impact and 0.001 Ac temp. clearing impact. USACOE Nationwide Permit

C. S.C. Navigable Waters (SCNW) Information (Section 2.6.5) The Department will address any issues related to State Navigable Waters' Program under SC Regulation 19-450 during the review of the C-SWPPP for activities that will **NOT** require a 404 permit or a 401 certification. (Attach additional sheet(s) as needed).

1. Are S. C. Navigable Waters (SCNW) on the site: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
a. If no, do not complete this question. Proceed to Section D (Impaired Waterbodies).		
b. If yes, provide the name of S.C. Navigable Waters (SCNW) on the site: _____		
2. If yes for C.1, will construction activities cross over or occur in, under, or thru the SCNW? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe SCNW activities (e.g., road crossing, sub-aqueous utility line, temporary or permanent structures, etc.) and proceed to Section C.3: _____		
3. Identify permits providing coverage of SCNW activities proposed for your site. If NONE, list none.		
Permits/Certifications	Permit or Certification No.	Corresponding Covered SCNW Activity(ies)
a. DHEC General/ Other DHEC Permit		
b. USACOE 404 Permit or 401 Certification		
c. SCNW Permit If applied for or issued, identify Date applied for or issued: _____		<input type="checkbox"/> All Activities or <input type="checkbox"/> Some Activities (Describe):
d. If a SCNW Permit has NOT been applied for provide an additional plan sheet that shows plan and profile views (drawn to scale) of the SCNW and associated activities. Include a description of all proposed activities on this plan.		

D. Impaired Waterbodies Information

1. 303(d) Listed Impaired Waterbodies					
a. Name of Nearest DHEC Water Quality Monitoring Stations (WQMS)(s) that receives stormwater from your construction site and/or thru an MS4 and the Name of the Corresponding Waterbody?		b. Is this WQMS(s) listed on the most current 303(d) list? If No, proceed to Section 2 of this table. If Yes, complete items C through f.	c. List the pollutant(s) identified as "CAUSES" of the impairment	d. Will any pollutants causing the impairment be present in your site's construction stormwater discharges?	e. If yes for d, list the "USE SUPPORT" impairment(s) affected by the pollutant(s) identified in c.
Nearest DHEC WQMS(s)	Corresponding Waterbody				
PD-660	Black River	Yes	HG	No	
RS-13151	Black River	No			
f. If yes for d above, will use of the BMPs proposed for your project ensure the site's discharges will NOT contribute to or cause further WQS violations for the impairment(s) listed in c? Yes No (NOTE: If no for f, this site is NOT eligible for coverage under the CGP). See Instructions.					

2. TMDL Impaired Waterbodies					
a. Name of Nearest DHEC Water Quality Monitoring Station (WQMS)(s) that receives stormwater from your construction site and/or thru an MS4 and the Name of the Corresponding Waterbody?		b. Has a TMDL(s) been developed for this WQMS(s)? If No, identify as such below and proceed to Section VI. If Yes, complete items c thru f on this table.	c. If yes for b, what pollutants are listed as "CAUSES" or causing the impairment?	d. If yes for b, has the standard been "ATTAINED" or "Fully Supported" for the impairment(s)?	e. If no for d (Not Attained), will any pollutants causing the impairment be present in your site's construction stormwater discharges?
PD-660		No			
RS-13151		No			
f. If yes for e above, are your discharges consistent with the assumptions and requirements of the TMDL(s)? Yes No (NOTE: If no for f, this site is NOT eligible for coverage under the CGP). See Instructions					



Coastal Zone Consistency Determination

To: Mallory C. Ware, BOW Coastal Stormwater Permitting Section

From: Benjamin Thépaut, OCRM Coastal Zone Consistency Section *BT*

Applicant: Ray Funnye, Georgetown County

Project Name: Tony Drive

Finding: Conditionally Consistent with the SC Coastal Zone Management Program

Site Location: Tony Drive at Oatland Road S-22-565, Georgetown County, South Carolina
(TMS#: SCDOT&Georgetown-ROW)

Reference #: HP9-VXKC-97KN5

Date: September 27, 2021

The staff of the Office of Ocean and Coastal Resource Management (OCRM) reviewed the above referenced Coastal Zone Consistency project request for land disturbance associated with improvements to existing residential road. Construction activities include paving and widening existing gravel road. Stormwater Management includes conveyance to improved dry swales and associated infrastructure. This project will permanently impact 0.004 acres of jurisdictional wetlands. The total area of disturbance will be 1.42 acres of a 2.27 acre project site.

We hereby certify that the above referenced project is **Conditionally Consistent** with the ***Guidelines for Evaluation of All Projects*** as well as the Transportation Facilities (*Roads*), Activities in Areas of Special Resource Significance (*Wetlands*), and Stormwater Management (*Runoff*) policies contained in the S.C. Coastal Zone Management Program provided the following conditions are included in the permits and adhered to by the applicant.

1. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

2. The project must be consistent with State Stormwater Permitting requirements during and post construction for protection of water quality
3. All construction BMPs must be installed, inspected and maintained to hold sediment onsite and to protect any adjacent or downstream critical area, wetlands and waters through the life of the project. Upon completion of construction activities, all disturbed (includes undeveloped) areas, including those impacted for access, must be immediately stabilized.
4. The project must be fully consistent with local zoning and comprehensive plans prior to work being conducted.
5. Prior to land disturbance and impacts to jurisdictional wetlands of 0.004 acres, applicant must fully comply with all general, special and regional terms and conditions of the US Army Corps of Engineers Permit (SAC-2021-01331) as well as SCDHEC requirements for Water Quality and Coastal Zone Certifications.

This determination shall serve as the SCDHEC OCRM Coastal Zone Consistency Determination for the work described above. However, this determination **does not** serve as a Department permitting decision and **does not** alleviate the applicant's responsibility to obtain any applicable State or Federal permit(s) for the work. Local government authorizations **may also** be required.

South Carolina Board of Health and Environmental Control
Guide to Board Review
Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by

regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publicly noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.



Coastal Zone Consistency Determination

To: Mallory C. Ware, BOW Coastal Stormwater Permitting Section

From: Benjamin Thépaut, OCRM Coastal Zone Consistency Section *BT*

Applicant: Ray Funnye, Georgetown County

Project Name: Tony Drive

Finding: Conditionally Consistent with the SC Coastal Zone Management Program

Site Location: Tony Drive at Oatland Road S-22-565, Georgetown County, South Carolina
(TMS#: SCDOT&Georgetown-ROW)

Reference #: HP9-VXKC-97KN5

Date: September 27, 2021

The staff of the Office of Ocean and Coastal Resource Management (OCRM) reviewed the above referenced Coastal Zone Consistency project request for land disturbance associated with improvements to existing residential road. Construction activities include paving and widening existing gravel road. Stormwater Management includes conveyance to improved dry swales and associated infrastructure. This project will permanently impact 0.004 acres of jurisdictional wetlands. The total area of disturbance will be 1.42 acres of a 2.27 acre project site.

We hereby certify that the above referenced project is **Conditionally Consistent** with the ***Guidelines for Evaluation of All Projects*** as well as the Transportation Facilities (*Roads*), Activities in Areas of Special Resource Significance (*Wetlands*), and Stormwater Management (*Runoff*) policies contained in the S.C. Coastal Zone Management Program provided the following conditions are included in the permits and adhered to by the applicant.

1. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

2. The project must be consistent with State Stormwater Permitting requirements during and post construction for protection of water quality
3. All construction BMPs must be installed, inspected and maintained to hold sediment onsite and to protect any adjacent or downstream critical area, wetlands and waters through the life of the project. Upon completion of construction activities, all disturbed (includes undeveloped) areas, including those impacted for access, must be immediately stabilized.
4. The project must be fully consistent with local zoning and comprehensive plans prior to work being conducted.
5. Prior to land disturbance and impacts to jurisdictional wetlands of 0.004 acres, applicant must fully comply with all general, special and regional terms and conditions of the US Army Corps of Engineers Permit (SAC-2021-01331) as well as SCDHEC requirements for Water Quality and Coastal Zone Certifications.

This determination shall serve as the SCDHEC OCRM Coastal Zone Consistency Determination for the work described above. However, this determination **does not** serve as a Department permitting decision and **does not** alleviate the applicant's responsibility to obtain any applicable State or Federal permit(s) for the work. Local government authorizations **may also** be required.



September 27, 2021

Ray Funnye
Georgetown County
2236 Browns Ferry Road,
Georgetown, SC 29440

Re: [SAC-2021-01331], HPB-YJ2G-0CBZ], Tony Drive
Georgetown County, South Carolina (TMS: SCDOT&Georgetown-ROW)

Dear Ray Funnye:

The US Army Corps of Engineers (Corps) issued a final notice in the Federal Register on March 19, 2017 reissuing the Corps' Nationwide Permits (NWP). The NWP program authorizes activities that have minimal individual and cumulative adverse effects on the aquatic environment. On March 7, 2017, the South Carolina Department of Health and Environmental Control (Department) certified thirty-nine NWP's with and without conditions in accordance with Section 401 of the Clean Water Act and the S.C. Coastal Tidelands and Wetlands Act (48-39-10 et seq.).

Coastal Zone Consistency staff has determined the work, consisting of permanent impacts to 0.004 acres of waters of the U. S. for the construction of a linear transportation project, to be in accordance with the March 19, 2017, Department certification for Section 404 of the Clean Water Act and consistency with the S. C. Coastal Zone Management Program provided the applicant adheres to all conditions of the NWP.

This letter serves as our Consistency Determination for the work, as described. Additional certifications may be required on-site for land disturbing activities that will could be subject to NPDES or other state permitting requirements.

Sincerely,

A handwritten signature in black ink that reads "Benjamin Thepaut".

Benjamin Thepaut
OCRM- Coastal Zone Consistency
thepauf@dhec.sc.gov

cc: Erica Stone, US Army Corps of Engineers
Morgan Amedee, SCDHEC BOW Wetland and Water Quality Certification Section
Judson Goff, Red Bay Environmental

Nationwide Permit 401 and CZC Conditions

Certified March 7, 2017

NWP 14: Linear Transportation Projects

Conditions of the 401 Water Quality Certification:

1. A compensatory mitigation plan must be submitted and approved by the SCDHEC for projects with impacts exceeding 0.10 acres or 300 linear feet.
2. Linear transportation projects must cross perpendicular (to the extent practicable) to the aquatic site area. Impacts certified under this NWP must be limited to three crossings per single and complete project and must be in non-tidal wetlands only.
3. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
4. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions for the Coastal Zone Consistency Determination:

Provided all the conditions of the 401 Water Quality Certification, plus the following conditions are included, the NWP will be consistent with the S.C. Coastal Zone Management Program.

1. The use of multiple NWPs on one tract or land parcel is not approved in the coastal zone without SCDHEC OCRM concurrence.
2. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.

Application for Encroachment Permit

S.C. Department of Transportation
Form 637 (Rev 09/2015)

Permit# 250004

Contact Information

Applicant: GeorgetownCountyDepartmentofPublicServices
Street: 108 Screven Street

City: Georgetown
State: SC **Zip Code:** 29440
Phone: (843)554-8602 **Fax:** (843)747-6485
Email: asmyre@davisfloyd.com
Contact: Andrew Smyre

Project Location

Primary County: Georgetown

County	Road Name
Georgetown	Oatland Rd (S-565)
Georgetown	Fuzzy Dr (S-537)

1. Type of Encroachment: OTHER
 Pave existing gravel roadway.

2. Description of Location:

Tony Drive at Oatland Road (S-565) and Tony Drive at Fuzzy Drive (S-537).

(Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structure, north arrow, right of way width, and location of the proposed encroachment with respect to the roadway centerline and the nearest intersecting road on the State system.)

3. The undersigned applicant hereby requests the SCDOT to permit encroachment on the SCDOT right of way as described herein. It is expressly understood that the encroachment, if and when constructed, shall be installed in accordance with the sketch attached hereto and made a part hereof. The applicant agrees to comply with and be bound by the SCDOT's "A Policy for Accommodating Utilities on Highways Rights of way", "Standard Specifications for Highway Construction", the "General Provisions" and "Special Provisions", attached hereto or made a part hereof by reference, during the installation, operation and maintenance of said encroachment within the SCDOT's Right of Way. **DISCHARGES OF STORM WATER AND NON-STORM WATER:** Work within State Highway right-of-way shall be conducted in compliance with all applicable requirements of the National Pollutant Discharge Elimination System (NPDES) permit(s) issued to the Department of Transportation (Department), to govern the discharge of storm water and non-storm water from its properties. Work shall also be in compliance with all other applicable Federal, State and Local laws and regulations, and with the Department's Encroachment Permits Manual and encroachment permit. The encroachment permit will not be issued until the applicant has received an NPDES construction permit from SC Department of Health and Environmental Control.

The applicant agrees to comply with all current SCDOT Standards Specifications for Highway Construction including all Supplemental Technical Specifications. The applicant hereby further agrees, and binds his/her/its heirs, personal representatives, successors, assigns, to assume any and all liability for accidents or injuries to persons, or damage to property, including the highway, that may be caused by the construction, maintenance, use, moving or removing of the physical appurtenances contemplated herein.

Applicant's Name: Date:
(Please print or type)

Applicant's Sig:  Title:

For Office Use Only

For Office Use Only

In accordance with your request and subject to all the provisions, terms, conditions, and restrictions stated in the application and the general and special provisions attached hereto, the SCDOT hereby approves your application for an encroachment permit. This permit shall become null and void unless the work contemplated herein shall have been completed prior to:

See Attached Special Provision and/or Permit Requirements

NPDES Permit
Nbr:

(Date received by res. Maint.

APPROVED
Engr. (SCDOT Approval)
By Raleigh Ward at 10:52 am, Nov 19, 2021

(Date)

Application for Encroachment Permit

General Provisions

1. **DEFINITIONS:** The word "Permittee" used herein shall mean the name of the person, firm, or corporation to whom this permit is addressed, his, her, its, heirs, personal representatives, successors and assigns. The word "DEPARTMENT" shall mean the South Carolina Department of Transportation.
2. **NOTICE PRIOR TO STARTING WORK:** Before starting the work contemplated herein within the limits of the highway right of way, the Department's Resident Maintenance Engineer in the county in which the proposed work is located shall be notified 24 hours in advance so that he may be present while the work is under way.
3. **PERMIT SUBJECT TO INSPECTION:** This permit shall be kept at the site of the work at all times while said work is under way and must be shown to any representative of the Department or law enforcement officer on demand.
4. **PROTECTION OF HIGHWAY TRAFFIC:** The applicant shall be responsible for the protection of the highway traffic at all times during the construction, maintenance, removing or moving of the encroachment permitted herein. Detours, barricades, warning signs and flagmen, as necessary, shall be provided by and at the expense of the Permittee and shall be in accordance with the "Manual on Uniform Traffic Control Devices" (MUTCD). The work shall be planned and carried out so that there will be the least possible inconvenience to the motoring public. The Permittee agrees to observe all rules and regulations of the Department while carrying on the work contemplated herein and take all other precautions that circumstances warrant.
5. **STANDARDS OF CONSTRUCTION:** All work shall conform to the Department's standards of construction and shall be performed in a workman-like manner. The applicant shall make adequate provisions for maintaining the proper drainage of the highway as it may be affected by the encroachment permitted herein. All work shall be subject to the supervision and satisfaction of the Department.
6. **FUTURE MOVING OF PHYSICAL APPURTENANCES:** If, in the opinion of the State Highway Engineer, it should ever become necessary to move or remove the physical appurtenances, or any part thereof contemplated herein, on account of change in location of the highway, widening of the highway, or for any other sufficient reason, such moving shall be done on demand of the Department at the expense of the Permittee.
7. **RESTORATION OF HIGHWAY FACILITIES UPON MOVING OR REMOVING OF PHYSICAL APPURTENANCES:** If, and when, the physical appurtenances contemplated herein shall be moved or removed, either on the demand of the Department or at the option of the Permittee, the highway and facilities shall immediately be restored to their original condition at the expense of the Permittee.
8. **COSTS:** All work in connection with the construction, maintenance, moving or removing of the physical appurtenances contemplated herein shall be done by and at the expense of the Permittee.
9. **ADDITIONAL PERMISSIONS:**
 - (a) It is distinctly understood that this permit does not in any way grant or release any rights lawfully possessed by the abutting property owners. The Permittee shall secure any such rights, as necessary, from said abutting property owners.
 - (b) The Permittee shall be responsible for obtaining all other approvals or permits necessary for installation of the encroachment from other government entities.

(c) There shall be no excavation of soil nearer than two feet to any public utility line or appurtenant facility except with the consent of the owner thereof, or except upon special permission of this Department after an opportunity to be heard is given the owner of such line or appurtenant facility.

10. **ADDITIONAL WORK PERFORMANCE:**

(a) All crossings over the highway shall be constructed in accordance with "Specifications for Overhead Crossings of Light and Power Transmission Lines and Telegraph Lines over each other and over Highway Rights of Way in South Carolina," as approved by the Public Service Commission of South Carolina and effective as of date of this permit.

(b) All tunneling, boring, or jacking shall be done in such a way as not to disturb the highway surfacing.

(c) No pavement shall be cut unless specifically authorized herein.

(d) No excavation shall be nearer than three feet to the edge of pavement unless specifically authorized herein.

(e) Underground facilities will be located at minimum depths as defined in the "Utility Accommodations Manual" for the transmittant, generally as follows: 4 feet minimum for hazardous or dangerous transmittant, 3 feet minimum for other lines. The Department may approve shallower depths if adequate protection is provided. Such approval must be obtained in writing.

(f) Service and other small diameter pipes shall be jacked, driven, or otherwise forced underneath the pavements on any surfaced road without disturbing the pavement. The section under the highway pavement and within a distance of three (3) feet on either side shall be continuous without joints.

11. **ACCESS:**

(a) Permittee is responsible for maintaining reasonable access to private driveways during construction.

(b) It is expressly provided that, with respect to any limited access highway, the Permittee shall not have or gain access from the main traveled way of the highway, or the on or off ramps to such facility, except upon approval by the Department.

12. **DRIVEWAYS:**

(a) The existing crown of the highway shall be continued to the outside shoulder line of the highway.

(b) If the driveway or approach is concrete pavement, the pavement shall be constructed at least 6 inches thick and with a minimum of class 2500 concrete. There shall be a bituminous expansion joint, not less than 3/4 inches in thickness, placed between the highway paving and the paving of the approach for the full width of the approach.

13. **BEAUTIFICATION:**

(a) All trees, plants, flowers, etc. shall be placed in accordance with the provisions specifically stipulated herein.

(b) All trees, plants, flowers, etc. shall be maintained by, and at the expense of, the Permittee and the provisions of this permit shall become null and void, if and when said Permittee ceases to maintain aid trees, plants, flowers, etc.

14. **AS-BUILT PLANS:**

(a) The applicant shall provide the Department with survey-quality as-built plans in accordance with the requirements set forth in the Department's "A Policy for Accommodating Utilities on Highway Rights of Way".

15. **COMPLETE STREETS:**

Reference Departmental Directive 28, "Complete Streets". For encroachment permit types that require a Traffic Impact Study (TIS), the applicant shall consider the inclusion of walking, bicycling, and transit accommodations within the scope of the encroachment. The applicant shall review walking, bicycling, and transit plans from Metropolitan Planning Organizations (MPOs), Councils of Government (COGs), and regional transit providers to determine the scope of accommodations for complete streets. Coordination with the District Permit Engineer is required to determine if the inclusion of walking, bicycling, and transit accommodations are conducive for implementation based on the scope of the encroachment.

**SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
Encroachment Permit**

Permit No : 250004

Permit Decision Date :
11/19/2021

Expiration Date : 11/19/2022

Type

Permit : MUNICIPALITY /
LOCAL FUNDED
PROJECT

Location:

<u>District</u>	<u>Work County</u>	<u>Type</u>	<u>Route</u>	<u>Aux</u>	<u>Begin MP</u>	<u>End MP</u>
5	Georgetown, SC	S-	565	None	0.221	0.249
5	Georgetown, SC	S-	537	None	1.002	1.046

Contact

Information

Applicant: GeorgetownCountyDepartmentofPublicServices

Phone:

Contact: Andrew Smyre

Address: 108 Screven Street,

City: Georgetown

State: SC

Zip: 29440

Comments

Tony Drive at Oatland Road (S-565) and Tony Drive at Fuzzy Drive (S-537).

Special

Provisions:

0003 - WHEN ROADS ARE RESURFACED, SHOULDERS SHALL BE REGRADED TO THE EDGE OF PAVEMENT TO CONFORM TO THE DEPARTMENT SPECIFICATIONS.

0004 - SCDOT SHALL BE NOTIFIED WHEN WORK DEFINED IN THE PERMIT STARTS AS WELL AS WHEN THE WORK IS COMPLETED. REFERENCE SHALL BE MADE BY PERMIT NUMBER.

0005 - APPLICANT SHALL PROVIDE TO THE DEPARTMENT THE OPPORTUNITY OF ATTENDING ANY PRE-CONSTRUCTION MEETING PRIOR TO THE BEGINNING OF WORK.

0123 - ALL WORK PERFORMED IN CONNECTION WITH THIS PERMIT SHALL CONFORM TO THE SCDOT "A POLICY FOR ACCOMODATING UTILITIES ON HIGHWAY RIGHT-OF-WAY" MOST CURRENT EDITION.

0207 - PIPE USED IN THIS INSTALLATION SHALL BE IN ACCORDANCE WITH SCDOT SPECIFICATION SC-M-714 AND COMPLY WITH CURRENT SCDOT POLICY.

0208 - REINFORCED CONCRETE PIPE SHALL BE USED FOR DRIVEWAY DRAINAGE.

0303 - THE ENTIRE DISTURBED AREA SHALL BE TOP-SOILED USING 3" OF SELECTED MATERIAL AND RE-GRASSED TO SCDOT SPECIFICATIONS.

0304 - PAVEMENT MARKINGS ALTERED DURING THIS INSTALLATION SHALL BE RESTORED BY THE APPLICANT.

0306 - TRAFFIC CONTROL, LIGHTS, SIGNS AND FLAG-MEN WILL BE FURNISHED BY APPLICANT AND WILL CONFORM TO PART VI OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.

0309 - THE PERMITTEE SHALL MAKE THE INSTALLATION UNDER THE SUPERVISION OF THE DEPARTMENT AND SHALL NOT BLOCK TRAFFIC AT ANY TIME.

0310 - FIELD CHANGES, IF NECESSARY, MUST BE APPROVED IN WRITING BEFORE ACTUAL CONSTRUCTION OF PROPOSED CHANGES.

0311 - SEDIMENT AND EROSION CONTROL DEVICES SHALL BE USED TO MINIMIZE THE MOVEMENT OF SEDIMENT.

0312 - THE PERMITTEE SHALL HOLD THE DEPARTMENT HARMLESS FOR DAMAGES TO BOTH UPSTREAM AND DOWNSTREAM PROPERTIES.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) 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.

2. *Aquatic Life Movements.* 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, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. *Suitable Material*. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. *Water Supply Intakes*. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments*. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows*. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains*. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment*. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls*. 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, or during low tides.

13. *Removal of Temporary Fills*. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance*. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. *Single and Complete Project*. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. *Wild and Scenic Rivers.* (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status. (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. *Tribal Rights.* No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If preconstruction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district

engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species specific permit conditions to the NWPs. (e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (*e.g.*, an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. (f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required. (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their worldwide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. *Historic Properties.* (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in 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. (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity 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 of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. (d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the

NHPA (54 U.S.C. 306113) 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 effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, 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, SHPO/THPO, 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 a legitimate interest in the impacts to the permitted activity on historic properties.

21. *Discovery of Previously Unknown Remains and Artifacts.* If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.*, on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal. (c) Compensatory

mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult to-replace resources (see 33 CFR 332.3(e)(3)). (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.*, conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.*, riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332. (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation. (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)). (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation. (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33

CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided. (6) Compensatory mitigation requirements (*e.g.*, resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33CFR 332.4(c)(1)(ii)). (g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2- acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs. (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management. (i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. *Safety of Impoundment Structures.* To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

30. *Compliance Certification.* Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include: (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions; (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the

permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and (c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a 'USACE project'), the prospective permittee must submit a preconstruction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the, additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's

right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2). (b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (*e.g.*, a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
- (8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for

listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act; (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and (10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal. (2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of streambed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes. (3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were

considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

The following Regional Conditions have been approved by the Charleston District for the Nationwide Permits (NWP) published in the January 6, 2017, Federal Register as authorized under General Condition #27. Regional conditions are authorized to modify NWPs by adding conditions on a generic basis applicable to certain activities or specific geographic areas. Certain terminologies used in the following conditions are identified in *italics* and are defined in the above referenced Federal Register under Definitions.

Note: The acronym “PCN” used throughout the Regional Conditions refers to *Pre-Construction Notification*.

For All Nationwide Permits:

1. The applicant must implement *best management practices* during and after all construction to minimize erosion and migration of sediments off site. These practices may include use of devices capable of preventing erosion and migration of sediments in waters of the United States., including wetlands. These devices must be maintained in a functioning capacity until the area is permanently stabilized. All disturbed land surfaces must be stabilized upon project completion. Stabilization refers to the minimization of erosion and migration of sediments off site.
2. All wetland and stream crossings must be stabilized immediately following completion of construction/installation and must be aligned and designed to minimize the *loss of waters of the United States*.
3. Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering waters of the United States, including wetlands that are adjacent to the authorized activity.
4. Any excess excavated materials not utilized as authorized back fill must be placed and contained on uplands and permanently stabilized to prevent erosion into waters of the United States, including wetlands.
5. Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited unless specifically authorized in the nationwide permit verification. Should double handling be authorized, the material must be placed in a manner that does not impede circulation of water and will not be dispersed by currents or other erosive forces.
6. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to aquatic resources and the surrounding environment.
7. If you discover any previously unknown historic, cultural or archeological remains and

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, *structures*, or non-recent (i.e., older than 100 years) vessel ruins.

8. Use of nationwide permits does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.
9. No NWP is authorized in areas known or suspected to have sediment contamination, with the exception of NWP 38, and NWP 53 when used in combination with NWP 38.
10. In accordance with General Condition #31, “Activities Affecting *Structures* or Works Built by the United States,” a *PCN* must be submitted if a NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE” project”). See General Condition #32 for *PCN* content and timing requirements and particularly paragraph (b)(10) for an activity that requires permission from the Corps pursuant to 33 U.S.C. 408. An activity in South Carolina that requires section 408 permission is not authorized by a NWP until the Charleston District issues the section 408 permission to alter, occupy, or use the USACE project, and the District Engineer issues a written NWP verification.
11. For all proposed activities that would be located in or adjacent to an authorized Federal Navigation project, as listed in Regional Condition #18, the *PCN* must include project drawings that have the following information: a) location of the edges of the Federal channel; b) setback distances from the edge of the channel; c) the distance from watermost edge of the proposed *structure* or fill to the nearest edge of the channel and the Mean High and Mean Low water lines; and d) coordinates of both ends of the watermost edge of the proposed *structure* or fill (NAD 83 State Plane Coordinates in decimal degrees). This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
12. For all proposed activities that would be located in waters that are designated critical habitat under section 7 of the Endangered Species Act, and waters that are proposed critical habitat, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32. Refer to the following National Oceanic and Atmospheric Administration (NOAA) Fisheries website for the most up-to-date information regarding Critical Habitat designations under the jurisdiction of the National Marine Fisheries Service (NMFS):
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

13. For all proposed activities that would be located within a FEMA designated floodway, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32.
14. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that the National Flood Insurance Program (NFIP) prohibits any development within a designated floodway within the FEMA Special Flood Hazard Area (SFHA), including placement of fill, without a “No Impact Certification” approved by the local NFIP flood plain manager. If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.
15. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that development activities in a designated FEMA Special Flood Hazard Area (SFHA) are subject to the floodplain management regulations of the National Flood Insurance Program (NFIP). If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.

For Specific Nationwide Permits:

16. **For NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51 and 52**, in accordance with General Condition # 22(a), Designated Critical Resource Waters, the discharges of dredged or fill material into waters of the United States within, or directly affecting, critical resource waters, including wetlands adjacent to such waters, are NOT authorized by these NWPs. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
17. **For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54**, in accordance with General Condition # 22(b), Designated Critical Resource Waters, a *PCN* is required for any activity proposed in designated critical resource waters including wetlands adjacent to those waters. Refer to General Condition #32 for *PCN* requirements. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
18. **For NWP 1, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 19 and 36**, the prospective permittee must submit a *PCN* to the District Engineer for any activity that would be located in or adjacent to an authorized Federal Navigation project. These Federal navigation areas include Adams Creek, Atlantic Intracoastal Waterway (AIWW), Ashley River, Brookgreen Garden Canal, Calabash Creek Charleston Harbor (including the Cooper River and Town Creek), Folly River, Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Canal), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Savannah River, Shem Creek

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

(including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.

19. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, temporary *structures*, fills, and/or work, including the use of temporary mats, are only authorized for a period of 90 days per temporary impact area and/or phase of the overall project. The permittee may submit a written request at least 15 days prior to the expiration of the original period of 90 days requesting an extension of up to an additional 90 days. The Charleston District Engineer may extend the 90-day period up to an additional 90 days, not to exceed more than a total of 180 days, where appropriate. After expiration of the authorized period (i.e., initial 90 days or up to an additional 90 days), all temporary *structures*, fills, and/or work, including the use of temporary mats, for the temporary impact area and/or phase of the overall project must be removed and the disturbed areas restored to pre-disturbance conditions. Activities that require the use of temporary *structures*, fills, and/or work, including the use of temporary mats, in excess of 180 days will require Individual Permit authorization from the Corps prior to construction.
20. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, that require *PCNs* and that involve temporary *structures*, fills, and/or work, including the use of temporary mats, the *PCN* must include a written description and/or drawings of the proposed temporary activities that will be used during project construction. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
21. **For NWPs 29, 39, 40, 42, 43, 44, 51 and 52**, impacts to stream beds** must be provided in both linear feet and acreage.
22. **NWPs 12, 14, 29, 39, 43, 51 and 52**, will not be used in conjunction with one another for an activity that is considered a *single and complete project*.
23. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, all *PCNs* must include appropriately sized and positioned culverts that meet the requirements of General Conditions #2, #9 and #10 for each individual crossing of waters of the United States. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
24. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, that include the new construction and/or replacement of culverted road crossings, at a minimum, the width of the base flow culvert(s) shall be approximately equal to the average channel width and will not reduce or increase stream depth. This is a minimum requirement that does not replace local and State requirements for roadway design.
25. **For NWPs 12, 14, 18 and 27**, the *discharge* must not cause the *loss* of more than 300 linear feet of stream bed**, unless for *intermittent* and *ephemeral* stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the *discharge* will result in no more than minimal adverse environmental effects.
26. **For NWPs 12, 14, 18 and 27**, the *discharge* cannot cause the *loss* of more than 300 linear feet

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

of *perennial stream* beds**.

27. **For NWPs 12, 14, and 18**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the proposed *discharge* will impact more than 25 linear feet of streambed. This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
28. **For NWP 3**, paragraph (a) and (c) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, if the proposed *discharge* of dredged or fill material will cause the loss of greater than 1/10-acre of waters of the United States or if the proposed *discharge* of dredged or fill material will be located within a special aquatic site, which includes but is not limited to, wetlands, mudflats, vegetated shallows, *riffle and pool complexes*, sanctuaries, and refuges.
29. **For NWP 3**, paragraph (a) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, for the repair, rehabilitation or replacement of existing utility lines constructed over *navigable waters* of the United States (i.e., Section 10 waters) and existing utility lines routed in or under *navigable waters* of the United States (i.e., Section 10 waters), even if no *discharge* of dredged or fill material occurs.
30. **For NWP 3**, paragraph (b) activities, excavation of accumulated sediment or other material is not authorized in areas within the immediate vicinity of existing *structures* (e.g., private or commercial dock facilities, piers, canals dug for boating access, marinas, boat slips, etc.).
31. **For NWPs 7 and 12**, the associated intake *structure* must be screened to prevent entrainment of juvenile and larval organisms, and the inflow velocity of the associated intake *structures* cannot exceed 0.5 feet/second.
32. Activities authorized by **NWP 7** must occur in the immediate vicinity of the outfall, and must be necessary for the overall construction or modification of the outfall. **NWP 7** shall not be used to authorize ancillary activities such as construction of access roads, installation of utility lines leading to or from the outfall or intake *structures*, construction of buildings, distant activities, etc.
33. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)** that involve horizontal directional drilling beneath *navigable waters* of the United States (i.e., section 10 waters), the *PCN* must include a proposed remediation plan (i.e., frac-out plan). This requirement is in addition to the *PCN* requirements listed in General Condition #32.
34. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, excavated material shall be returned to the trench and any remaining material shall be relocated and retained on an upland disposal site. Substrate containing roots, rhizomes, seeds, and other natural material must be kept viable and replaced at the surface of the excavated site. Impacted wetlands will be replanted with native wetland

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native.

35. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, stream banks that are cleared of vegetation will be stabilized using bioengineering techniques and/ or the planting of deep-rooted native species.
36. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, construction techniques to prevent draining, such as anti-seep collars, will be required for utility lines buried in waters of the United States when necessary. If no construction techniques to prevent draining are proposed, the prospective permittee must provide appropriate documentation to support that such techniques are not required to prevent drainage of waters of the United States.
37. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve temporary *structures*, fills, and/or work. To be complete, the *PCN* must also include the specifications of how pre-construction contours will be re-established and verified after construction. This notification requirement is in addition to the notification criteria listed for this NWP.
38. **For utility line activities authorized by NWP 12, (as well as utility lines associated with projects authorized by NWP 29 and 39)**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the activity will involve maintained utility crossings. To be complete, the *PCN* must also include a justification for the required width of the maintained crossing that impacts waters of the United States. This notification requirement is in addition to the notification criteria listed for this NWP.
39. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the construction of a sub-station in waters of the United States. To be complete, the *PCN* must also include a statement of avoidance and minimization for the *loss of waters of the United States* impacted by the utility line sub-station. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
40. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the permanent conversion of forested wetlands to herbaceous wetlands. To be complete, the *PCN* must also include the acreage of conversion impacts of waters of the United States and a *compensatory mitigation* proposal or a statement of why *compensatory mitigation* should not be required. This requirement is in addition to the *PCN* requirements listed in General Condition #32.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

41. **For NWP 13 activities, NWP 54 activities, and living shoreline projects authorized by NWP 27** that require submittal of a *PCN*, the *PCN* must include the following information:

- a. Habitat type along the shoreline;
- b. The presence of stabilization *structures* in the vicinity of the project;
- c. Cause/s, extent, and approximate rate of erosion (if known);
- d. Site specific information which may include: shoreline orientation, slope, bank height, tidal range, nearshore bathymetry, fetch, substrate stability, etc.;
- e. Rationale for selecting the preferred stabilization technique;
- f. A statement that structural materials toxic to aquatic organisms will not be used and if stone is proposed, a statement that only clean stone, free of exposed rebar, asphalt, plastic, soil, etc., will be used; and
- g. A statement that filter fabric will be used as appropriate when stone or other heavy material is proposed.

These requirements are in addition to the *PCN* requirements listed in General Condition #32.

42. Projects qualifying for **NWP 27 and/or NWP 54** will require coordination with appropriate Federal, State, and local agencies. The coordination activity will be conducted by the Corps of Engineers. Agencies will generally be granted 15 days to review and provide comments unless the District Engineer determines that an extension of the coordination period is reasonable and prudent.

43. **For NWP 29**, the *loss of waters of the United States* is limited to a maximum of 1/4-acre for a single family residence.

44. **For NWPs 29 and 39**, the *discharges* of dredged or fill material for the construction of *stormwater management facilities* in *perennial streams* are not authorized.

45. **For NWP 33**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, for temporary construction, access, and dewatering activities that occur in non-tidal waters of the United States, including wetlands. In addition, the *PCN* shall include a restoration plan.

46. **For NWP 36**, only one boat ramp may be constructed on a single lot or tract of land (e.g., each lot within a subdivision).

47. **For NWP 38**, the *PCN* must contain the following information:

- a. documentation that the specific activities are required to effect the containment, stabilization, or removal of hazardous or toxic waste materials as performed, ordered, or sponsored by a government agency with established legal or regulatory authority;
- b. a narrative description indicating the size and location of the areas to be restored, the work involved and a description of the anticipated results from the restoration; and

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

c. a plan for the monitoring, operation, or maintenance of the restored area.

This requirement is in addition to the *PCN* requirements listed in General Condition #32.

48. **For NWP 41**, a *PCN* must be submitted to the District Engineer for projects that require mechanized land clearing in waters of the United States, including wetlands, in order to access or perform reshaping activities.
49. **NWP 41** is prohibited in channelized streams or stream relocation projects that exhibit natural stream characteristics and/or perform natural stream functions.
50. **For NWP 48**, changing from bottom culture to floating or suspended culture will require submittal of a *PCN* to the District Engineer. Additionally, new aquaculture activities involving suspended or floating culture will require submittal of a *PCN* to the District Engineer. Refer to the *PCN* requirements listed in General Condition #32. Note: If the District Engineer determines that the proposed floating or suspended culture will result in more than minimal adverse environmental effects, an Individual Permit will be required for the proposed activity.
51. **For NWP 48**, when a new commercial shellfish aquaculture activity will occur adjacent to property that is not owned by the prospective permittee, the activity will require submittal of a *PCN* to the District Engineer. The *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A map or depiction that shows the adjacent property(ies) and adjacent property owners' contact information. Note: This information may be obtained online from the applicable county's tax information pages.
 - b. A signed letter(s) of "no objection" to the proposed commercial shellfish activity from each of the adjacent property owner(s). Each letter shall include the name, mailing address, property address, property Tax Map Parcel (TMS) number, and signature of the property owner.
52. **For NWP 53**, the *PCN* must include a Tier I evaluation, in accordance with the Inland Testing Manual, for the project area immediately upstream of the low-head dam. If the Tier I evaluation indicates contaminated sediments are present, a Tier II evaluation may be required.
53. **For NWP 54 projects and living shoreline and/or oyster restoration projects authorized by NWP 27**, the *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A plan view project sketch that shows the proposed project footprint; the Mean High Water (MHW) Line; the Mean Low Water (MLW) Line; marsh line (if applicable); shoreline; width of the waterway at the project location; location of adjacent *structures*,

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

such as docks and boat ramps (if applicable); distance of the project footprint from the MHW line; distance of the project footprint from adjacent *structures*; and proposed location of informational or navigation markers. Refer to c. and d. below, if applicable. Note: Refer to Regional Condition #11 if the proposed project is located in or adjacent to an authorized Federal Navigation project for the additional information that will be required.

b. A cross-section sketch that shows the height of the proposed project above substrate and the water depth at MHW Line and MLW Line in relation to the proposed project.

c. For projects that are 18 inches or less in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell and wooden sills, informational signs to alert boaters to the presence of the project area will be required. The *PCN* must include a depiction and description of proposed informational signs. The signs must be made of reflective material or must include reflective tape on the sign or sign post. The signs must be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: The prospective permittee shall be made aware that the U.S. Coast Guard (USCG) may require the project area to be marked. Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding possible markers and/or lighting requirements. The permittee shall install all markers and/or lighting as required by the USCG. In the event that the USCG does not require markers or lighting, the permittee shall mark the project area with Corps approved informational signs as described above. Note 3: These requirements will be added to the NWP verification as special conditions.

d. For projects that are more than 18 inches in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell, and wooden sills, the prospective permittee must mark the project area with diamond-shaped white day markers with orange border and black print stating “Danger Obstruction”. The signs shall be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding potential project specific approval of the markers. The permittee shall install all markers and/or lighting as required by the USCG. In the event the USCG does not require these or other markers and/or lighting, the “Danger Obstruction” markers are still required by the Corps. Note 3: These requirements will be added to the NWP verification as special conditions.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

** For the purpose of these regional conditions, the term “stream bed” also includes features determined to be a “tributary” and a “relatively permanent water.”

Note 1: For the purpose of these regional conditions, bankfull is defined as the top-of-bank to top-of bank of the channel in a cross-sectional view.

Note 2: Regional conditions # 14, #15, and #53d were revised on September 7, 2017.



September 21, 2021

Mr. Ray Funnye
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, SC 29442
rcfunnye@gtcounty.org

Re: 401 Certification for Authorization To Impact Not More Than 0.004 acre of Waters of The US, Including Wetlands Pursuant to Nationwide Permit 14 (Linear Transportation Projects)

Applicant Permit ID No.: SAC 2021-01331

Applicant: Georgetown County Public Works

County: Georgetown

Project: Tony Drive Improvements

Dear Mr. Funnye:

The US Army Corps of Engineers (Corps) issued a final notice in the Federal Register on January 6, 2017 reissuing the Corps' Nationwide Permits (NWP). NWP authorize activities that have minimal individual and cumulative adverse effects on the aquatic environment. On March 7, 2017, the South Carolina Department of Health and Environmental Control (Department) certified the NWP in accordance with Section 401 of the Clean Water Act and the S.C. Coastal Zone Management Act (48-39-10 et seq.).

The Department has reviewed the above-reference project in accordance with the March 7, 2017 certification and, provided the applicant adheres to the certification conditions outlined in the attached document, the Department has determined that there is a reasonable assurance that the work authorized will be conducted in a manner consistent with the certification requirements of Section 401 of the Clean Water Act. Please be advised that, since this project is located in the coastal zone, you should check with the Department's Office of Ocean and Coastal Resource Management (OCRM) to ensure that the project is consistent with the SC Coastal Zone management Act. If you have any questions, please call or email me at (803) 898-4179 or amedeemd@dhec.sc.gov.

Sincerely,

Morgan Amedee

Morgan D. Amedee
Water Quality Certification and Wetlands Section

cc: USACOE Conway Regulatory Office
Mr. Judson Goff
OCRM

Nationwide Permit Number 14: Linear Transportation Projects

Proposed Conditions of the 401 Water Quality Certification:

1. A compensatory mitigation plan must be submitted and approved by the SCDHEC for projects with permanent impacts exceeding 0.10 acres or 300 linear feet.
2. Linear transportation projects must cross perpendicular (to the extent practicable) to the aquatic site area. Impacts certified under this NWP must be limited to three crossings per single and complete project and must be in non-tidal wetlands only.
3. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
4. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Project Number: SAC-2021-01331

Name of Permittee: Ray Funnye / Georgetown County

Date of Issuance: September 20, 2021

Upon completion of the activity authorized by this Nationwide Permit/General Permit authorization letter, including any compensatory mitigation, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Regulatory Division – Northeast Branch
1949 Industrial Park Road, Suite 140
Conway, South Carolina 29526

Please note that the authorized activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your Nationwide Permit authorization letter this office may suspend, modify, or revoke this authorization.

PM:ES

=====

I hereby certify that the work authorized by the above referenced Nationwide Permit/General Permit authorization letter has been completed in accordance with the terms and conditions of said authorization letter, including the performance of any required compensatory mitigation.

Signature of Permittee



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT
1949 INDUSTRIAL PARK ROAD, ROOM 140
CONWAY, SOUTH CAROLINA 29526

September 20, 2021

Regulatory Division

Mr. Ray Funnye
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, SC 29442
rcfunnye@gtcounty.org

Dear Mr. Funnye:

This is in response to your request received in our office on August 3, 2021. In submitting the application, you requested verification that the proposed project is authorized under the Department of the Army Nationwide Permit (NWP) Program. The work affecting waters of the United States is part of an overall project known as Tony Drive Improvements. The project is located north of Boheck Creek, west of the Black River along portions of Oatland Road and Tony Drive in Georgetown County, South Carolina (Latitude: 33.502°, Longitude: -79.3447°).

Department of the Army authorization is necessary because your project will involve work in waters of the U.S.

As of September 17, 2021, more than 45 calendar days have passed since your pre-construction notice was received. In accordance with 2017 NWP General Condition 32(a)(2), you were authorized to begin your activity under Nationwide Permit #14, on September 17, 2021, since you did not receive written notice from the district or division engineer.

It is incumbent upon you to construct your activity in compliance with the terms and conditions of the NWP. The 2017 NWPs along with the current Regional and General Conditions can be accessed by clicking on "Nationwide Permits" at the following website:

<https://www.sac.usace.army.mil/Missions/Regulatory/Permitting-Process/>

The Nationwide Permits are due to expire on March 18, 2022, unless the NWPs are modified, reissued, or revoked. It is incumbent upon you to remain informed of changes to the NWPs. You may still need State or local consent. Prior to performing the work, you should contact the South Carolina Department of Environmental Control, Bureau of Water and/or the Office of Ocean and Coastal Resource Management. A copy of this notification is being forwarded to State and/or Federal agencies for their information.

In all future correspondence, please refer to file number SAC-2021-01331. A copy of this letter is forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Erica L. Stone, Project Manager, at (843) 365-4239, or by email at Erica.L.Stone@usace.army.mil.

Sincerely,



Erica L. Stone
Project Manager

Copies Furnished:

Mr. Judson Goff
Red Bay Environmental
720 Hawksbill Court
Mount Pleasant, South Carolina 29464
jagoff@redbayenvironmental.com

SC DHEC - Bureau of Water
2600 Bull Street
Columbia, South Carolina 29201
WQCWetlands@dhec.sc.gov

SC DHEC - OCRM
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405
OCRMPermitting@dhec.sc.gov

From: [SAC.RD.Conway](#)
To: "Judson Goff"
Cc: [Bracey, Wiley C SAC](#); [Huff, Robert C SAC](#)
Subject: RE: Tony Drive Improvements NWP 14 Application & Jurisdictional Determination Request
Date: Tuesday, August 3, 2021 8:08:00 PM
Attachments: [1-Special PN-Workload Jan-2021.pdf](#)

Mr Goff,

This is to notify you that your project, Tony_Dr_Improv_NWP_14_Permit, has been electronically received in the Conway Field Office. It has been forwarded to the Team Lead for assignment and you should be receiving an updated notification from the Project Manager to whom it has been assigned.

NOTE: Please see the attached document as it relates to current workload priorities

Additional information about the Charleston District Regulatory Program and Public Notice postings can be found on our web site at <http://www.sac.usace.army.mil/Missions/Regulatory/Permitting-Process/>.

If you have any questions, please contact us via e-mail at SAC.RD.Conway@usace.army.mil or at 843.365.4239.

Dorothy M. Swearingin
Regulatory Program Assistant
Northeast Branch -- Charleston District
843-365-4239

From: Judson Goff <jagoff@redbayenvironmental.com>
Sent: Tuesday, August 3, 2021 6:54 PM
To: SAC.RD.Conway <SAC.RD.Conway@usace.army.mil>
Subject: [Non-DoD Source] Tony Drive Improvements NWP 14 Application & Jurisdictional Determination Request

Please find the attached joint NWP 14 application and jurisdictional determination request for improvements to Tony Drive proposed by Georgetown County Public Works.

THANKS!

Judd Goff
Red Bay Environmental
(843) 810-3311
jagoff@redbayenvironmental.com



October 25, 2021

Ray Funnye
Georgetown County
2236 Browns Ferry Road
Georgetown, SC 29440

RE: Arapaho Drive and Navajo Trail, Georgetown County
NPDES Coverage Number: SCR10Z975

Dear Ray Funnye:

The Department of Health and Environmental Control (Department or DHEC) has approved the Stormwater Pollution Prevention Plan (SWPPP) for the referenced project on **October 25, 2021 WITHOUT REVIEW**. Based on your submission of the Notice of Intent (NOI) and in accordance with the NPDES General Permit for Stormwater Discharges from Construction Activities (CGP), this project has been granted coverage under the CGP. This project's general permit coverage number is **SCR10Z975**. The total disturbed area for this site is **1.9 acres**.

Additional sets of final plans must be provided to the Department so that stamped, final plans are available for use on site, as required by the CGP.

See attached DHEC Office of Ocean and Coastal Resource Management (DHEC-OCRM) certification dated October 25, 2021 for additional conditions related to the Coastal Zone Consistency determination.

The CGP can be downloaded at the following website: <http://www.scdhec.gov/Environment/docs/CGP-permit.pdf> or you may request a copy from us via email (stormwatercgp@dhec.sc.gov). You are responsible for ensuring your contractor(s) complies with the approved SWPPP and the minimum requirements of the CGP. Also, you are responsible for overall compliance with the Storm Water Management and Sediment Reduction Act of 1991 (1991 Act), SC Pollution Control Act, and the Federal Clean Water Act (CWA). Failure to comply with the approved SWPPP or applicable statutes and regulations may result in enforcement actions.

You must notify the local DHEC EA office prior to starting any land-disturbing activity. The address and telephone number are as follows:

Pee Dee EA Myrtle Beach
927 Shine Avenue
Myrtle Beach, SC 29577
843-238-4378

Inspections of this site must be performed by qualified personnel as described in Section 4.2.E of the CGP.

You should be aware that this approval is only applicable for the SWPPP that was submitted for this project. Any additional construction or land disturbing activity beyond the scope of the approved plans is not authorized. Any future work for this project not shown on the stamped, approved plans will require that you

submit another site plan for review and approval. All major modifications require review and approval by the Department. Minor modifications to the approved SWPPP may be made by the SWPPP preparer and do not require review and approval by the Department; these changes should be signed and dated by the SWPPP preparer. If you have a question about whether a modification is major or minor, contact the Coastal Stormwater Permitting Section at (843) 953-0200.

A copy of the stamped, approved SWPPP (including a copy of the CGP, contractor certifications, inspection records, rainfall data, etc.), NOI, and CGP coverage letter from DHEC must be retained and available at the construction site (or accessible within 30 minutes during normal business hours) from the date of commencement of construction activities to the date of final stabilization. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

All contractors who will conduct land-disturbing activities at the site must complete a Contractor Certification Form. You are also responsible for listing all contractors in the SWPPP and for holding a pre-construction conference with each contractor before they can conduct land-disturbing activity at the site.

The Department may conduct periodic inspections of your site. Any violations found during these inspections may result in enforcement action.

This NPDES coverage should be terminated by the permittee when the conditions listed in Section 5.1 of the CGP have been met. You must submit a Notice of Termination (NOT) to cancel your NPDES coverage under the CGP. Please see section 5.1 of the CGP for additional information required to be submitted with the NOT.

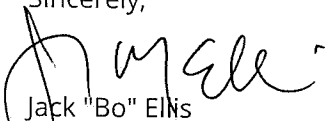
You are responsible for obtaining any other federal, state, or local permit that may be required for this project. In particular, any permits through the U.S. Army Corps of Engineers for the placement of fill material in Waters of the United States. Please note we have not sent a copy of this letter to any county or city building official. You must send a copy of this letter to these agencies, if necessary.

If material excavated during construction activities leaves the site, a mine operating permit may be needed. You are responsible for contacting the Mining and Reclamation Section to determine if a mining permit is required for the site. The Mining and Reclamation Section can be reached at (803)898-1362 or via e-mail at AskMines@dhec.sc.gov.

Please see the enclosed "Guide to Board Review" document for information about the procedures for appealing this NPDES coverage.

If you have any questions or cannot access the referenced websites, please call me at 843-953-0249.

Sincerely,


Jack "Bo" Ellis
Coastal Stormwater Permitting Section

CC: Andrew Symre, Davis & Floyd Inc.
Pee Dee EA Myrtle Beach



NOTICE OF INTENT (NOI)
For Coverage(s) of Primary Permittees
Under South Carolina NPDES General Permit
For Stormwater Discharges From Construction Activities SCR100000
 (Maintain As Part of On-Site SWPPP)

For Official Use Only

File Number: _____
 Permit Number: **SCR10** _____
 Submittal Package Complete: _____

Submission of this Notice of Intent constitutes notice that the Applicant identified in Section II intends to be authorized as a Primary Permittee in the state of South Carolina under NPDES General Permit SCR1000000. Fees required for review and NPDES coverage of each application type are as listed on page 2 of the Instructions.

SOUTH CAROLINA
 DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL
 DAM SAFETY AND STORMWATER PERMITTING DIVISION
 CONSTRUCTION STORMWATER PERMITTING
 APPROVED - FOR CONSTRUCTION ONLY

DHEC PERMIT #: SCR102975
 DATE ISSUED: 10-25-2021
 BY: [Signature]
Without Review

Date: 05/19/2021
 Project/Site Name: Arapaho Drive and Navajo Trail County: Georgetown
 (Modification or Change of Information Only) Prior Approved NPDES Permit or File Number: _____

Do you want this project to be considered for the Expedited Review Program (ERP)? Yes or No (See instructions)

I. Notice of Intent (NOI) Application Type(s)

- A. **Project (Application/Review) Type(s)** (Select ALL that apply):
 New Project (Initial Notification) Ongoing Project: Permitted or Un-Permitted
 Late Notification Low Impact Development (LID) or Project Design Above Regulatory Requirements
 New Owner/Operator or Company Name Change (see instructions, attach Form A (Transfer of Ownership))
 Major Modification: (see instructions, attach Form B (Major Modifications))
 MS4 Project Review
 Ocean and Coastal Resource Management (OCRM) Review
 Change of Information/Other (Specify): _____
- B. If Applicable, identify the entity designated as MS4 Reviewer and MS4 Operator (i.e., Lexington County, City of Greer, etc.): MS4 Reviewer _____ MS4 Operator _____

RECEIVED
 MAY 24 2021

Lexington County, City of Stormwater
 Permitting Division

II. Primary Permittee Information

Person or Company If a Company, are you a Lending Institution or Government Entity?
 Company EIN (If applicable): EIN: 57-6000353

- A. **Primary Permittee Name:** Georgetown County
 Mailing Address: 2236 Browns Ferry Road City: Georgetown State: SC Zip: 29440
 Phone: 843.545.3460 Fax: 843.545.3460 Email Address: rcfunnye@gtcounty.org
- B. **Contact /ODSA Name** (If different from above OR if owner is a company): Jacob Nesmith
 Mailing Address: 2236 Browns Ferry Road City: Georgetown State: SC Zip: 29440
 Phone: 843.545.3438 Fax: 843.545.3486 Email Address: jnesmith@gtcounty.org
- C. **Property Owner Name** (If different from above): _____
 Mailing Address: _____ City: _____ State: _____ Zip: _____
 Phone: _____ Fax: _____ Email Address: _____

III. Comprehensive Stormwater Pollution Prevention Plan (C-SWPPP) Preparer Information Change of Information

- A. **C-SWPPP Preparer Name:** Andrew Smyre
 B. **Registered Professional** Engineer Landscape Architect Tier B Land Surveyor S. C. Registration #: _____
 C. **Company/Firm Name:** Davis & Floyd, Inc. S. C. COA #: 00538
 Mailing Address: 3229 West Montague Ave. City: Charleston State: SC Zip: 29418
 Phone: 843.554.8602 Fax: 843.747.6485 Email Address: asmyre@davisfloyd.com

IV. Project/Site Information

- A. **Type of Construction Activity(ies)** (Select ALL that apply): Change of Information
 Commercial Industrial Institutional Mass Grading Linear Utility/Infrastructure
 Residential: Single-family Residential: Multi-family Multi-use (Commercial & Residential)
 Site Preparation (No New Impervious Area) Other (Specify) _____
- B. **Site Address/Location** (street address, nearest intersection, etc.) Arapaho Drive at Amos Road
 City/Town (If in limits): _____ Zip Code: 29440
 Latitude: 33° 30' 54" N Longitude: - 79° 24' 41" W (Source): GPS Web Site: Google Earth
 Tax Map Number (s) (List all): Georgetown County Right-of-Way

RECEIVED
MAY 24 2021
Dam Safety and Stormwater
Permitting Division

- C. Is this site located on Indian Land? Yes No
 D. Proposed Start Date: 12/01/2021 Proposed Completion Date: 06/01/2022
 E. Disturbed Area (nearest tenth of an acre): 1.9 Total Area (acres): 3.1
 F. Modification Only: (nearest tenth of an acre): Disturbed Area: Current (Approved) Area: _____
 Disturbed Area Change (Increase Only): _____ Total Disturbed Area (After Change): _____
 G. Is this project part of a Larger Common Plan for Development or Sale (LCP)? Yes No
 LCP/ Overall Development Name: _____ Check here if this is the First Phase.
 Previous State Permit/File Number: _____ Previous NPDES Coverage Number: SCR10 _____

- H. Any Flooding Problems exist downstream of or adjacent to this site? Yes No (If yes, provide detailed description of flooding problems and applicable floodway/flood zone information in the C-SWPPP).
 I. Active S.C. DHEC Warning Notice, Notice to Comply or Notice of Violation for this site or LCP? Yes No
 J. List Relevant State and Federal Environmental Permits or Approvals applied for or obtained for this site (e.g., RCRA, USACOE, Nationwide, etc.). If None, list None.
USACOE Nationwide Permit
 K. Any Waiver(s)/Variances/Exceptions Requested for this Project? (If yes, identify below and include Waiver Request and Justifications in the C-SWPPP for each proposed request).

1. Small Construction Activity Waiver(s) From NPDES permitting (Section 1.4 & Appendix B)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, Identify requested waiver: <input type="checkbox"/> Rainfall Erosivity Waiver <input type="checkbox"/> TMDL Waiver <input type="checkbox"/> Equivalent Analysis Waiver		
2. Detention Waiver (72-302(B))? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	3. Other (Specify): _____	

V. Waterbody Information (Attach additional sheet(s) as needed) Change of Information

A. Receiving Waterbody(s) (RWB) Information (List the nearest and next nearest receiving waterbodies to which the sites stormwater discharges will drain. If stormwater discharges drain to multiple waterbodies, list all such waterbodies).

1. Name of Receiving Waterbodies (RWB)	2. Distance to RWB (feet)	3. Classification of RWB
a. Nearest: <u>Unnamed Tributary to Black River</u>	0	FW
b. Next Nearest: _____		
c. Coastal Zone ONLY: Coastal Receiving Water (CRW): <u>Black River</u>	325	Not Applicable
d. Other Waterbodies: _____		

B. Waters of the U.S. / State Information (Attach additional sheet(s) as needed)

Waters of the U.S./ State	1. On the site?	2. Delineated/ Identified?	3. Impacts?	4. Amount of impacts
a. Jurisdictional wetlands	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>.078</u> Ac <u>3403</u> Sq. Ft.
b. Non-jurisdictional wetlands	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	____ Ac
c. Other Water(s): _____	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	____ Ac ____ Feet
d. Coastal Zone ONLY: Direct Critical Area	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	____ Ac ____ Feet

5. If yes for impacts in B.3, describe each impact and activity, and list all permits (e.g., USACOE Nationwide Permit, DHEC General Permit) and certifications that have been applied for or obtained for each impact:
USACOE Nationwide Permit. 0.078 Acres of wetland impacts.

C. S.C. Navigable Waters (SCNW) Information (Section 2.6.5) The Department will address any issues related to State Navigable Waters' Program under SC Regulation 19-450 during the review of the C-SWPPP for activities that will NOT require a 404 permit or a 401 certification. (Attach additional sheet(s) as needed).

1. Are S. C. Navigable Waters (SCNW) on the site: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No a. If no, do not complete this question. Proceed to Section D (Impaired Waterbodies). b. If yes, provide the name of S.C. Navigable Waters (SCNW) on the site: _____		
2. If yes for C.1, will construction activities cross over or occur in, under, or thru the SCNW? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe SCNW activities (e.g., road crossing, sub-aqueous utility line, temporary or permanent structures, etc.) and proceed to Section C.3: _____		
3. Identify permits providing coverage of SCNW activities proposed for your site. If NONE, list none.		
Permits/Certifications	Permit or Certification No.	Corresponding Covered SCNW Activity(ies)
a. DHEC General/ Other DHEC Permit		
b. USACOE 404 Permit or 401 Certification		
c. SCNW Permit If applied for or issued, identify Date applied for or issued: _____		<input type="checkbox"/> All Activities or <input type="checkbox"/> Some Activities (Describe): _____
d. If a SCNW Permit has NOT been applied for provide an additional plan sheet that shows plan and profile views (drawn to scale) of the SCNW and associated activities. Include a description of all proposed activities on this plan.		



Coastal Zone Consistency Determination

To: Jack "Bo" Ellis, BOW Coastal Stormwater Permitting Section

From: Benjamin Thépaut, OCRM Coastal Zone Consistency Section BT

Applicant: Ray Funnye, Georgetown County

Project Name: Arapaho Drive and Navajo Trail

Finding: Conditionally Consistent with the SC Coastal Zone Management Program

Site Location: Arapaho Drive at Amos Road, Georgetown County, South Carolina
(TMS#: SCDOT-ROW)

Reference #: HP9-AMA2-Q2G22

Date: October 25, 2021

The staff of the Office of Ocean and Coastal Resource Management (OCRM) reviewed the above referenced Coastal Zone Consistency project request for land disturbance associated with improvements to existing roadway. Improvements include paving and widening of existing dirt roadway. Stormwater Management includes conveyance to improved dry swale and associated infrastructure. This project will permanently impact 0.078 acres of jurisdictional freshwater wetlands. The total area of disturbance will be 1.9 acres of a 3.1 acre project site.

We hereby certify that the above referenced project is **Conditionally Consistent** with the ***Guidelines for Evaluation of All Projects*** as well as the Transportation Facilities (*Roads*), Activities in Areas of Special Resource Significance (*Wetlands*), and Stormwater Management (*Runoff*) policies contained in the S.C. Coastal Zone Management Program provided the following conditions are included in the permits and adhered to by the applicant.

1. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

2. The project must be consistent with State Stormwater Permitting requirements during and post construction for protection of water quality
3. All construction BMPs must be installed, inspected and maintained to hold sediment onsite and to protect any adjacent or downstream critical area, wetlands and waters through the life of the project. Upon completion of construction activities, all disturbed (includes undeveloped) areas, including those impacted for access, must be immediately stabilized.
4. The project must be fully consistent with local zoning and comprehensive plans prior to work being conducted.
5. Prior to land disturbance and impacts to jurisdictional wetlands of 0.078 acres, applicant must fully comply with all general, special and regional terms and conditions of the US Army Corps of Engineers Permit (SAC 2020-01773) as well as SCDHEC requirements for Water Quality and Coastal Zone Certifications.

This determination shall serve as the SCDHEC OCRM Coastal Zone Consistency Determination for the work described above. However, this determination **does not** serve as a Department permitting decision and **does not** alleviate the applicant's responsibility to obtain any applicable State or Federal permit(s) for the work. Local government authorizations **may also** be required.



October 25, 2021

Ray Funnye
Georgetown County
2236 Browns Ferry Road,
Georgetown, SC 29440

Re: [SAC-2020-01773], HPC-QQ2J-1VERA, Arapaho Drive and Navajo Trail
Georgetown County, South Carolina (TMS: SCDOT-ROW)

Dear Ray Funnye:

The US Army Corps of Engineers (Corps) issued a final notice in the Federal Register on March 19, 2017 reissuing the Corps' Nationwide Permits (NWP). The NWP program authorizes activities that have minimal individual and cumulative adverse effects on the aquatic environment. On March 7, 2017, the South Carolina Department of Health and Environmental Control (Department) certified thirty-nine NWP's with and without conditions in accordance with Section 401 of the Clean Water Act and the S.C. Coastal Tidelands and Wetlands Act (48-39-10 et seq.).

Coastal Zone Consistency staff has determined the work, consisting of permanent impacts to 0.078 acres of waters of the U. S. for the construction of a linear transportation project, to be in accordance with the March 19, 2017, Department certification for Section 404 of the Clean Water Act and consistency with the S. C. Coastal Zone Management Program provided the applicant adheres to all conditions of the NWP.

This letter serves as our Consistency Determination for the work, as described. Additional certifications may be required on-site for land disturbing activities that will could be subject to NPDES or other state permitting requirements.

Sincerely,

Benjamin Thepaut
DHEC-OCRM Coastal Zone Consistency
thepauf@dhec.sc.gov

cc: Erica Stone, US Army Corps of Engineers
Ms. Morgan Amedee, SCDHEC BOW Wetland and Water Quality Certification Section
Judson Goff, Red Bay Environmental

Nationwide Permit 401 and CZC Conditions
Certified March 7, 2017

NWP 14: Linear Transportation Projects

Conditions of the 401 Water Quality Certification:

1. A compensatory mitigation plan must be submitted and approved by the SCDHEC for projects with impacts exceeding 0.10 acres or 300 linear feet.
2. Linear transportation projects must cross perpendicular (to the extent practicable) to the aquatic site area. Impacts certified under this NWP must be limited to three crossings per single and complete project and must be in non-tidal wetlands only.
3. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
4. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions for the Coastal Zone Consistency Determination:

Provided all the conditions of the 401 Water Quality Certification, plus the following conditions are included, the NWP will be consistent with the S.C. Coastal Zone Management Program.

1. The use of multiple NWPs on one tract or land parcel is not approved in the coastal zone without SCDHEC OCRM concurrence.
2. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.

South Carolina Board of Health and Environmental Control
Guide to Board Review
Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201
- Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by

regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publicly noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

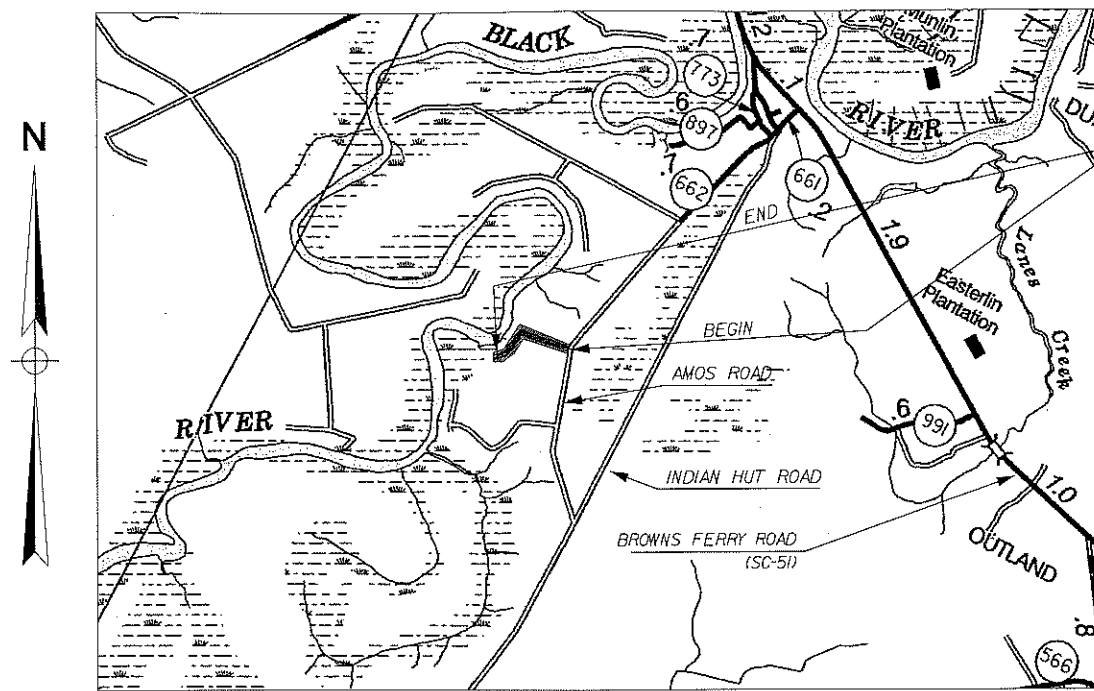
The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

STATE	COUNTY	D&F PROJECT NO.	ROAD NAME	ROUTE NO.	SHEET NO.	TOTAL SHEETS
S.C.	GEORGETOWN	31810.07	ARAPAHO/NAVAJO		1	33

GEORGETOWN COUNTY DEPARTMENT OF PUBLIC SERVICES
DIVISION OF PUBLIC WORKS

PLAN OF PROPOSED IMPROVEMENTS
FOR ARAPAHO DRIVE AND NAVAJO TRAIL

Handwritten notes in the top left corner, including "MULLER" and "NO. 24 213".



LAYOUT
1" = 2640'

SOUTH CAROLINA
DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL
DAM SAFETY AND STORMWATER PERMITTING DIVISION
CONSTRUCTION STORMWATER PERMITTING
APPROVED - FOR CONSTRUCTION ONLY

DHEC PERMIT #: SCR102975
DATE ISSUED: 10-25-2021
BY: Without Review

NPDES PERMIT INFORMATION	
NPDES Disturbed Area =	1.85 Acres
Approximate Location of Roadway is:	
Longitude	79° 24' 57.24" W
Latitude	33° 30' 59.22" N
Hydrology and NPDES Design provided by:	
Davis & Floyd	

NET LENGTH OF ROADWAY	0.41 MILES
NET LENGTH OF OUTFALL	0.00 MILES
NET LENGTH OF PROJECT	0.41 MILES
LENGTH OF EXCEPTIONS	0.00 MILES
GROSS LENGTH OF PROJECT	0.41 MILES

NOTE: ALL WORKMANSHIP AND MATERIAL ON THIS PROJECT TO CONFORM WITH SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION (2007 EDITION), AND BOOK OF STANDARD DRAWINGS FOR ROAD CONSTRUCTION.

RAILROAD INVOLVEMENT?
YES / NO

INDEX OF SHEETS

SHEET #	DESCRIPTION	SHEET TOTALS
1	TITLE SHEET	1
3	TYPICAL SECTIONS	1
5	GENERAL CONSTRUCTION NOTES	1
5A-5C	REFERENCE DATA SHEET	3
6 - II	PLAN AND PROFILE SHEETS	6
EC1-EC2	EROSION CONTROL SHEETS	2
UI	UTILITY SHEET	1
XI - X9	CROSS SECTIONS	9
DI - D9	DETAIL SHEETS	9
	TOTAL SHEETS	33

3 DAYS BEFORE DIGGING IN
SOUTH CAROLINA
CALL 811
PALMETTO UTILITY PROTECTION SERVICES, INC. (PUPS)
ALL UTILITIES MAY NOT BE A MEMBER OF PUPS.

CONSULTING ENGINEERING FIRM CONSULTANT - PROJECT ENGINEER

DAVIS & FLOYD, INC.
No. 000538

AGENCY REVIEW
NOT FOR CONSTRUCTION

FOR CONSTRUCTION: _____ DATE _____



October 25, 2021

Ray Funnye
Georgetown County
2236 Browns Ferry Road,
Georgetown, SC 29440

Re: [SAC-2020-01773], HPC-QQ2J-1VERA, Arapaho Drive and Navajo Trail
Georgetown County, South Carolina (TMS: SCDOT-ROW)

Dear Ray Funnye:

The US Army Corps of Engineers (Corps) issued a final notice in the Federal Register on March 19, 2017 reissuing the Corps' Nationwide Permits (NWP). The NWP program authorizes activities that have minimal individual and cumulative adverse effects on the aquatic environment. On March 7, 2017, the South Carolina Department of Health and Environmental Control (Department) certified thirty-nine NWP's with and without conditions in accordance with Section 401 of the Clean Water Act and the S.C. Coastal Tidelands and Wetlands Act (48-39-10 et seq.).

Coastal Zone Consistency staff has determined the work, consisting of permanent impacts to 0.078 acres of waters of the U. S. for the construction of a linear transportation project, to be in accordance with the March 19, 2017, Department certification for Section 404 of the Clean Water Act and consistency with the S. C. Coastal Zone Management Program provided the applicant adheres to all conditions of the NWP.

This letter serves as our Consistency Determination for the work, as described. Additional certifications may be required on-site for land disturbing activities that will could be subject to NPDES or other state permitting requirements.

Sincerely,

Benjamin Thepaut
DHEC-OCRM Coastal Zone Consistency
thepauf@dhec.sc.gov

cc: Erica Stone, US Army Corps of Engineers
Ms. Morgan Amedee, SCDHEC BOW Wetland and Water Quality Certification Section
Judson Goff, Red Bay Environmental

Nationwide Permit 401 and CZC Conditions
Certified March 7, 2017

NWP 14: Linear Transportation Projects

Conditions of the 401 Water Quality Certification:

1. A compensatory mitigation plan must be submitted and approved by the SCDHEC for projects with impacts exceeding 0.10 acres or 300 linear feet.
2. Linear transportation projects must cross perpendicular (to the extent practicable) to the aquatic site area. Impacts certified under this NWP must be limited to three crossings per single and complete project and must be in non-tidal wetlands only.
3. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
4. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.

Conditions for the Coastal Zone Consistency Determination:

Provided all the conditions of the 401 Water Quality Certification, plus the following conditions are included, the NWP will be consistent with the S.C. Coastal Zone Management Program.

1. The use of multiple NWPs on one tract or land parcel is not approved in the coastal zone without SCDHEC OCRM concurrence.
2. For all projects, the applicant must provide a Wetland Master Plan consistent with the policies and procedures of Chapter III Policy Section XII E. of the S.C. Coastal Zone Management Program. **WMP policies also include the preservation of all wetlands not proposed to be impacted through approved restrictive covenants.** The plan must include an identification of all wetlands, all wetland impacts/activities, drainage patterns, conceptual development, and a mitigation plan.



Coastal Zone Consistency Determination

To: Jack "Bo" Ellis, BOW Coastal Stormwater Permitting Section

From: Benjamin Thépaut, OCRM Coastal Zone Consistency Section *BT*

Applicant: Ray Funnye, Georgetown County

Project Name: Arapaho Drive and Navajo Trail

Finding: Conditionally Consistent with the SC Coastal Zone Management Program

Site Location: Arapaho Drive at Amos Road, Georgetown County, South Carolina
(TMS#: SCDOT-ROW)

Reference #: HP9-AMA2-Q2G22

Date: October 25, 2021

The staff of the Office of Ocean and Coastal Resource Management (OCRM) reviewed the above referenced Coastal Zone Consistency project request for land disturbance associated with improvements to existing roadway. Improvements include paving and widening of existing dirt roadway. Stormwater Management includes conveyance to improved dry swale and associated infrastructure. This project will permanently impact 0.078 acres of jurisdictional freshwater wetlands. The total area of disturbance will be 1.9 acres of a 3.1 acre project site.

We hereby certify that the above referenced project is **Conditionally Consistent** with the ***Guidelines for Evaluation of All Projects*** as well as the Transportation Facilities (*Roads*), Activities in Areas of Special Resource Significance (*Wetlands*), and Stormwater Management (*Runoff*) policies contained in the S.C. Coastal Zone Management Program provided the following conditions are included in the permits and adhered to by the applicant.

1. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

2. The project must be consistent with State Stormwater Permitting requirements during and post construction for protection of water quality
3. All construction BMPs must be installed, inspected and maintained to hold sediment onsite and to protect any adjacent or downstream critical area, wetlands and waters through the life of the project. Upon completion of construction activities, all disturbed (includes undeveloped) areas, including those impacted for access, must be immediately stabilized.
4. The project must be fully consistent with local zoning and comprehensive plans prior to work being conducted.
5. Prior to land disturbance and impacts to jurisdictional wetlands of 0.078 acres, applicant must fully comply with all general, special and regional terms and conditions of the US Army Corps of Engineers Permit (SAC 2020-01773) as well as SCDHEC requirements for Water Quality and Coastal Zone Certifications.

This determination shall serve as the SCDHEC OCRM Coastal Zone Consistency Determination for the work described above. However, this determination **does not** serve as a Department permitting decision and **does not** alleviate the applicant's responsibility to obtain any applicable State or Federal permit(s) for the work. Local government authorizations **may also** be required.



DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
1949 INDUSTRIAL PARK ROAD, ROOM 140
CONWAY, SOUTH CAROLINA 29526

July 28, 2021

Regulatory Division

Mr. John Scott
Red Bay Environmental
720 Hawksbill Court
Mount Pleasant, South Carolina 29464
jwscott@redbayenvironmental.com

Dear Mr. Scott:

This is in response to your request for a preliminary jurisdictional determination (PJD). Based on information submitted to the U.S. Army Corps of Engineers (Corps) we have determined there may be waters of the United States, including wetlands on your parcel located at the following:

Project Number:	SAC-2020-01773
County:	Georgetown County
Project/Site Size:	5.289
Latitude:	33.5157°N
Longitude:	-79.4143°W
Project/Site Location:	Arapaho Drive and Navajo Trail, in the City of Georgetown, Georgetown County, South Carolina.
Waters (Acreage/Linear Feet):	Wetland A (0.057 acre) + Wetland B (0.091 acre) = 0.148 acre

A copy of the PJD form and the maps dated June 22, 2021, and titled "GEORGETOWN COUNTY / ENGINEERED ROADS PROGRAM / ARAPAHO DRIVE / NAVAJO TRAIL / PROJECT AREA EXHIBIT SHEET 2", is enclosed. Please carefully read this form, then sign and return a copy to the project manager at the following Wiley.C.Bracey@usace.army.mil within 30 days from the date of this notification.

Please be advised a Department of the Army permit will be required for regulated work in all areas which may be waters of the United States, as indicated in this PJD. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a PJD will treat all waters and wetlands, which would be affected in any way by the permitted activity on the site, as if they are jurisdictional waters of the United States. Should you desire an approved Corps determination, one will be issued upon request.

You are cautioned that work performed in areas which may be waters of the United States, as indicated in the PJD, without a Department of the Army permit could subject you to enforcement action.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

If you submit a permit application as a result of this PJD, include a copy of this letter and the depiction as part of the application. Not submitting the letter and depiction will cause a delay while we confirm a PJD was performed for the proposed permit project area. Note that some or all of these areas may be regulated by other state or local government entities, and you should contact the South Carolina Department of Health and Environmental Control, Bureau of Water and/or Office of Ocean and Coastal Resource Management, to determine the limits of their jurisdiction.

In all future correspondence, please refer to file number SAC-2020-01773. If you have any questions, please contact me at (843) 365-1707, or by email at Wiley.C.Bracey@usace.army.mil.

Sincerely,



Digitally signed by
BRACEY.WILEY.C.1295091904
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=BRACEY.WILEY.C.1295091904
Date: 2021.07.28 00:22:52 -04'00'

Wiley Bracey
Team Lead

Enclosures:

Preliminary Jurisdictional Determination Form
Notification of Appeal Options
"GEORGETOWN COUNTY / ENGINEERED ROADS PROGRAM / ARAPAHO DRIVE /
NAVAJO TRAIL / PROJECT AREA EXHIBIT SHEET 2"

Copies Furnished:

Mr. Ray Funnye
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, South Carolina 29442
rcfunnye@gtcounty.org

BACKGROUND INFORMATION

A. **REPORT COMPLETION DATE FOR PJD:** July 28, 2021

B. **NAME AND ADDRESS OF PERSON REQUESTING PJD:**

Funnye, Ray
 Georgetown County Public Works
 2236 Browns Ferry Road
 Georgetown, SC 29442
rcfunnye@gtcounty.org

C. **DISTRICT OFFICE, FILE NAME, AND NUMBER:**

SAC-RDE, Arapaho Drive and Navajo Trail Tract, SAC-2020-01773

D. **PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
 (USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: South Carolina County/parish/borough: Georgetown City: Georgetown
 Center coordinates of site (lat/long in degree decimal format):
 Lat.: 33.5157^{°N} Long.: -79.4143^{°W}
 Universal Transverse Mercator: 17
 Name of nearest waterbody: Black River

E. **REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: July 28, 2021
- Field Determination. Date(s):

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Wetland A	33.515549	-79.416905	0.057 acres	Wetland	Section 404
Wetland B	33.515474	-79.416804	0.091 acres	Wetland	Section 404

- 1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification"

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

(PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:


- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: "GEORGETOWN COUNTY / ENGINEERED ROADS PROGRAM / ARAPAHO DRIVE / NAVAJO TRAIL / PROJECT AREA EXHIBIT SHEET 2" dated June 22, 2021.
Data sheets prepared/submitted by or on behalf of the PJD requestor.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report. Rationale: _____.
- Data sheets prepared by the Corps: N/A _____.
- Corps navigable waters' study: _____.
- U.S. Geological Survey Hydrologic Atlas: _____.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: USGS 7.5 Min Quad – Rhems – Depicts wetlands onsite within vicinity of Wetland A and Wetland B.
- Natural Resources Conservation Service Soil Survey. Citation: Lakeland (non-hydric).
- National wetlands inventory map(s). Cite name: PFO1Bd – Palustrine Forested Wetland.

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

___ State/local wetland inventory map(s): _____.
___ FEMA/FIRM maps: _____
___ 100-year Floodplain Elevation is: _____. (National Geodetic Vertical Datum of 1929)
___ Photographs: Aerial (Name & Date): Google Earth 2017, USGS National Map 3D Elevation Program (3DEP) published August 13, 2020.
___ or Other (Name & Date): site photographs submitted on 12/3/2020 by the applicant.
___ Previous determination(s). File no. and date of response letter: _____.
___ Other information (please specify): _____.

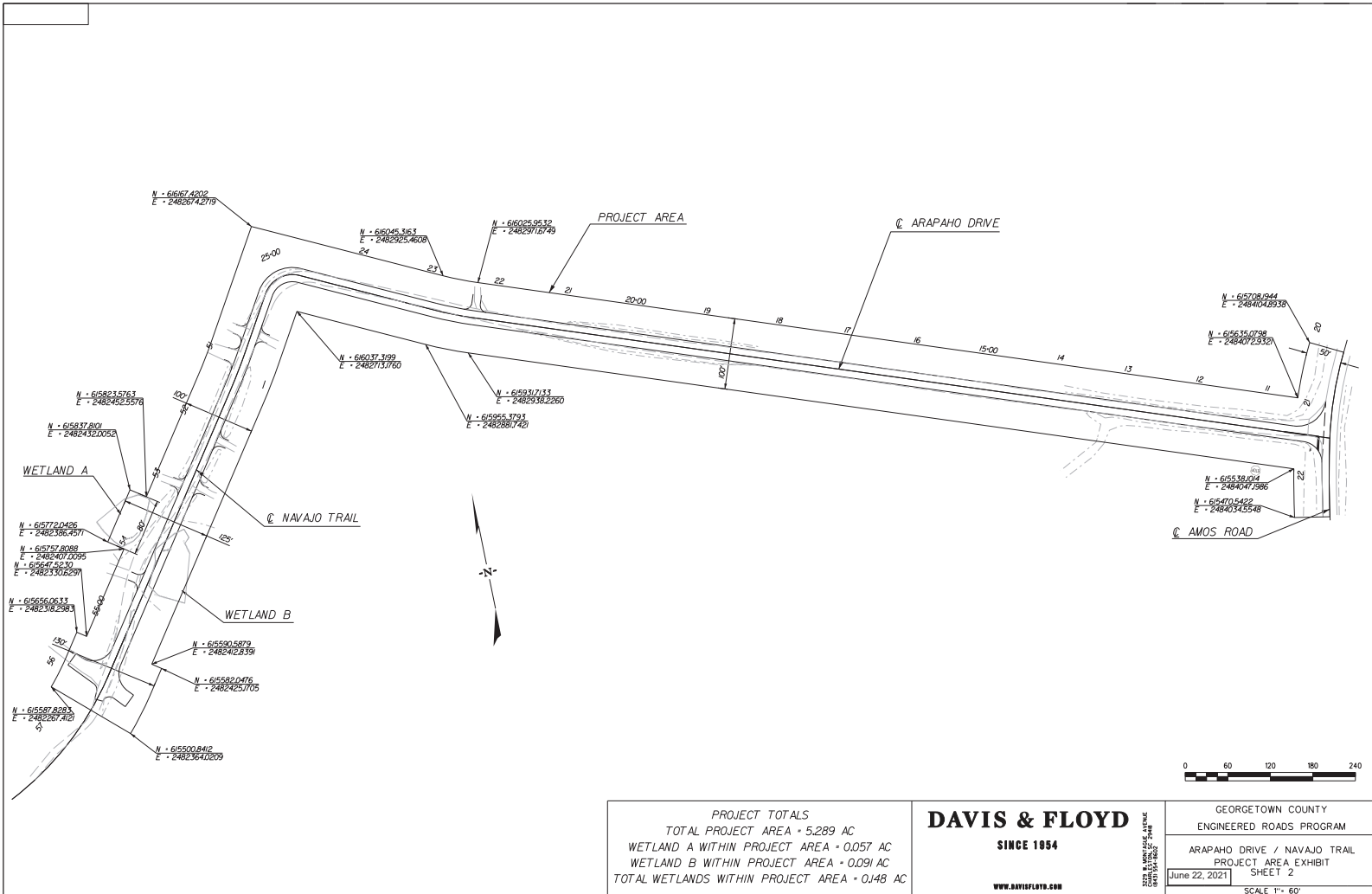
IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.


Digitally signed by
BRACEY.WILEY.C.1295091904
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=BRACEY.WILEY.C.1295091904
Date: 2021.07.28 00:26:10 -04'00'

Signature and date of Regulatory staff member completing PJD

Signature and date of person requesting PJD (REQUIRED, unless obtaining the signature is impracticable)¹

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.



NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Ray Funnye Georgetown County Public Works	File Number: SAC-2020-01773	Date: July 28, 2021
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer, South Atlantic Division, 60 Forsyth St, SW, Atlanta, GA 30308-8801. This form must be received by the Division Engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is **not appealable**. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact the Corps biologist who signed the letter to which this notification is attached. The name and telephone number of this person is given at the end of the letter.

If you only have questions regarding the appeal process you may also contact the Coordinator for Appeals in our South Atlantic Division Office in Atlanta, Georgia at (404) 562-5136.
Jason W. Steele
60 Forsyth St, SW
Atlanta, GA 30308-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. *Navigation.* (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) 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.

2. *Aquatic Life Movements.* 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, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. *Suitable Material*. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. *Water Supply Intakes*. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. *Adverse Effects From Impoundments*. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. *Management of Water Flows*. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. *Fills Within 100-Year Floodplains*. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. *Equipment*. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. *Soil Erosion and Sediment Controls*. 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, or during low tides.

13. *Removal of Temporary Fills*. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. *Proper Maintenance*. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. *Single and Complete Project*. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. *Wild and Scenic Rivers.* (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status. (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. *Tribal Rights.* No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. *Endangered Species.* (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If preconstruction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district

engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species specific permit conditions to the NWPs. (e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (*e.g.*, an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. (f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required. (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their worldwide Web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. *Historic Properties.* (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in 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. (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity 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 of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. (d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the

NHPA (54 U.S.C. 306113) 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 effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, 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, SHPO/THPO, 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 a legitimate interest in the impacts to the permitted activity on historic properties.

21. *Discovery of Previously Unknown Remains and Artifacts.* If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (*i.e.*, on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal. (c) Compensatory

mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult to-replace resources (see 33 CFR 332.3(e)(3)). (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (*e.g.*, conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (*e.g.*, riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332. (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation. (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)). (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation. (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33

CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided. (6) Compensatory mitigation requirements (*e.g.*, resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33CFR 332.4(c)(1)(ii)). (g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2- acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs. (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management. (i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. *Safety of Impoundment Structures.* To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(Transferee)

(Date)

30. *Compliance Certification.* Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include: (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions; (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the

permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and (c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ‘USACE project’), the prospective permittee must submit a preconstruction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the, additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) 45 calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s

right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2). (b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (*e.g.*, a conceptual plan), but do not need to be detailed engineering plans);
- (5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
- (8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for

listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act; (9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and (10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals. (d) *Agency Coordination:* (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity’s adverse environmental effects so that they are no more than minimal. (2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of streambed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes. (3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity’s compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were

considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

The following Regional Conditions have been approved by the Charleston District for the Nationwide Permits (NWP) published in the January 6, 2017, Federal Register as authorized under General Condition #27. Regional conditions are authorized to modify NWPs by adding conditions on a generic basis applicable to certain activities or specific geographic areas. Certain terminologies used in the following conditions are identified in *italics* and are defined in the above referenced Federal Register under Definitions.

Note: The acronym “PCN” used throughout the Regional Conditions refers to *Pre-Construction Notification*.

For All Nationwide Permits:

1. The applicant must implement *best management practices* during and after all construction to minimize erosion and migration of sediments off site. These practices may include use of devices capable of preventing erosion and migration of sediments in waters of the United States., including wetlands. These devices must be maintained in a functioning capacity until the area is permanently stabilized. All disturbed land surfaces must be stabilized upon project completion. Stabilization refers to the minimization of erosion and migration of sediments off site.
2. All wetland and stream crossings must be stabilized immediately following completion of construction/installation and must be aligned and designed to minimize the *loss of waters of the United States*.
3. Necessary measures must be taken to prevent oil, tar, trash, debris and other pollutants from entering waters of the United States, including wetlands that are adjacent to the authorized activity.
4. Any excess excavated materials not utilized as authorized back fill must be placed and contained on uplands and permanently stabilized to prevent erosion into waters of the United States, including wetlands.
5. Placement and/or stockpiling (double handling) of excavated material in waters of the United States, including wetlands, is prohibited unless specifically authorized in the nationwide permit verification. Should double handling be authorized, the material must be placed in a manner that does not impede circulation of water and will not be dispersed by currents or other erosive forces.
6. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to aquatic resources and the surrounding environment.
7. If you discover any previously unknown historic, cultural or archeological remains and

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, *structures*, or non-recent (i.e., older than 100 years) vessel ruins.

8. Use of nationwide permits does not obviate requirements to obtain all other applicable Federal, State, county, and local government authorizations.
9. No NWP is authorized in areas known or suspected to have sediment contamination, with the exception of NWP 38, and NWP 53 when used in combination with NWP 38.
10. In accordance with General Condition #31, “Activities Affecting *Structures* or Works Built by the United States,” a *PCN* must be submitted if a NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE” project”). See General Condition #32 for *PCN* content and timing requirements and particularly paragraph (b)(10) for an activity that requires permission from the Corps pursuant to 33 U.S.C. 408. An activity in South Carolina that requires section 408 permission is not authorized by a NWP until the Charleston District issues the section 408 permission to alter, occupy, or use the USACE project, and the District Engineer issues a written NWP verification.
11. For all proposed activities that would be located in or adjacent to an authorized Federal Navigation project, as listed in Regional Condition #18, the *PCN* must include project drawings that have the following information: a) location of the edges of the Federal channel; b) setback distances from the edge of the channel; c) the distance from watermost edge of the proposed *structure* or fill to the nearest edge of the channel and the Mean High and Mean Low water lines; and d) coordinates of both ends of the watermost edge of the proposed *structure* or fill (NAD 83 State Plane Coordinates in decimal degrees). This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
12. For all proposed activities that would be located in waters that are designated critical habitat under section 7 of the Endangered Species Act, and waters that are proposed critical habitat, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32. Refer to the following National Oceanic and Atmospheric Administration (NOAA) Fisheries website for the most up-to-date information regarding Critical Habitat designations under the jurisdiction of the National Marine Fisheries Service (NMFS):
http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

13. For all proposed activities that would be located within a FEMA designated floodway, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32.
14. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that the National Flood Insurance Program (NFIP) prohibits any development within a designated floodway within the FEMA Special Flood Hazard Area (SFHA), including placement of fill, without a “No Impact Certification” approved by the local NFIP flood plain manager. If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.
15. The permittee must comply with all FEMA regulations and requirements. The permittee is advised that development activities in a designated FEMA Special Flood Hazard Area (SFHA) are subject to the floodplain management regulations of the National Flood Insurance Program (NFIP). If the proposed action is located in a designated FEMA SFHA (e.g., 100 year flood plain), the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements prior to initiating construction. A list of NFIP floodplain managers may be found at: <http://www.dnr.sc.gov/water/flood/index.html>.

For Specific Nationwide Permits:

16. **For NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51 and 52**, in accordance with General Condition # 22(a), Designated Critical Resource Waters, the discharges of dredged or fill material into waters of the United States within, or directly affecting, critical resource waters, including wetlands adjacent to such waters, are NOT authorized by these NWPs. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
17. **For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38 and 54**, in accordance with General Condition # 22(b), Designated Critical Resource Waters, a *PCN* is required for any activity proposed in designated critical resource waters including wetlands adjacent to those waters. Refer to General Condition #32 for *PCN* requirements. Note: The ACE Basin National Estuarine Research Reserve and the North Inlet Winyah Bay National Estuarine Research Reserve are Designated Critical Resource Waters.
18. **For NWPs 1, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 19 and 36**, the prospective permittee must submit a *PCN* to the District Engineer for any activity that would be located in or adjacent to an authorized Federal Navigation project. These Federal navigation areas include Adams Creek, Atlantic Intracoastal Waterway (AIWW), Ashley River, Brookgreen Garden Canal, Calabash Creek Charleston Harbor (including the Cooper River and Town Creek), Folly River, Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Canal), Jeremy Creek, Little River Inlet, Murrells Inlet (Main Creek), Port Royal Harbor, Savannah River, Shem Creek

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

(including Hog Island Channel & Mount Pleasant Channel), Shipyard Creek, Village Creek and the Wando River.

19. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, temporary *structures*, fills, and/or work, including the use of temporary mats, are only authorized for a period of 90 days per temporary impact area and/or phase of the overall project. The permittee may submit a written request at least 15 days prior to the expiration of the original period of 90 days requesting an extension of up to an additional 90 days. The Charleston District Engineer may extend the 90-day period up to an additional 90 days, not to exceed more than a total of 180 days, where appropriate. After expiration of the authorized period (i.e., initial 90 days or up to an additional 90 days), all temporary *structures*, fills, and/or work, including the use of temporary mats, for the temporary impact area and/or phase of the overall project must be removed and the disturbed areas restored to pre-disturbance conditions. Activities that require the use of temporary *structures*, fills, and/or work, including the use of temporary mats, in excess of 180 days will require Individual Permit authorization from the Corps prior to construction.
20. **For NWPs 3, 11, 12, 13, 14, 15, 20, 22 and 33**, that require *PCNs* and that involve temporary *structures*, fills, and/or work, including the use of temporary mats, the *PCN* must include a written description and/or drawings of the proposed temporary activities that will be used during project construction. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
21. **For NWPs 29, 39, 40, 42, 43, 44, 51 and 52**, impacts to stream beds** must be provided in both linear feet and acreage.
22. **NWPs 12, 14, 29, 39, 43, 51 and 52**, will not be used in conjunction with one another for an activity that is considered a *single and complete project*.
23. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, all *PCNs* must include appropriately sized and positioned culverts that meet the requirements of General Conditions #2, #9 and #10 for each individual crossing of waters of the United States. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
24. **For NWPs 12, 14, 29, 39, 46, 51 and 52**, that include the new construction and/or replacement of culverted road crossings, at a minimum, the width of the base flow culvert(s) shall be approximately equal to the average channel width and will not reduce or increase stream depth. This is a minimum requirement that does not replace local and State requirements for roadway design.
25. **For NWPs 12, 14, 18 and 27**, the *discharge* must not cause the *loss* of more than 300 linear feet of stream bed**, unless for *intermittent* and *ephemeral* stream beds the District Engineer waives the 300 linear foot limit by making a written determination concluding that the *discharge* will result in no more than minimal adverse environmental effects.
26. **For NWPs 12, 14, 18 and 27**, the *discharge* cannot cause the *loss* of more than 300 linear feet

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

of *perennial stream* beds**.

27. **For NWPs 12, 14, and 18**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the proposed *discharge* will impact more than 25 linear feet of streambed. This notification requirement is in addition to the *PCN* requirements listed in General Condition #32.
28. **For NWP 3**, paragraph (a) and (c) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, if the proposed *discharge* of dredged or fill material will cause the loss of greater than 1/10-acre of waters of the United States or if the proposed *discharge* of dredged or fill material will be located within a special aquatic site, which includes but is not limited to, wetlands, mudflats, vegetated shallows, *riffle and pool complexes*, sanctuaries, and refuges.
29. **For NWP 3**, paragraph (a) activities, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition # 32, for the repair, rehabilitation or replacement of existing utility lines constructed over *navigable waters* of the United States (i.e., Section 10 waters) and existing utility lines routed in or under *navigable waters* of the United States (i.e., Section 10 waters), even if no *discharge* of dredged or fill material occurs.
30. **For NWP 3**, paragraph (b) activities, excavation of accumulated sediment or other material is not authorized in areas within the immediate vicinity of existing *structures* (e.g., private or commercial dock facilities, piers, canals dug for boating access, marinas, boat slips, etc.).
31. **For NWPs 7 and 12**, the associated intake *structure* must be screened to prevent entrainment of juvenile and larval organisms, and the inflow velocity of the associated intake *structures* cannot exceed 0.5 feet/second.
32. Activities authorized by **NWP 7** must occur in the immediate vicinity of the outfall, and must be necessary for the overall construction or modification of the outfall. **NWP 7** shall not be used to authorize ancillary activities such as construction of access roads, installation of utility lines leading to or from the outfall or intake *structures*, construction of buildings, distant activities, etc.
33. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)** that involve horizontal directional drilling beneath *navigable waters* of the United States (i.e., section 10 waters), the *PCN* must include a proposed remediation plan (i.e., frac-out plan). This requirement is in addition to the *PCN* requirements listed in General Condition #32.
34. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, excavated material shall be returned to the trench and any remaining material shall be relocated and retained on an upland disposal site. Substrate containing roots, rhizomes, seeds, and other natural material must be kept viable and replaced at the surface of the excavated site. Impacted wetlands will be replanted with native wetland

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

species or allowed to naturally re-vegetate from the replaced substrate, as long as the resulting vegetation is native.

35. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, stream banks that are cleared of vegetation will be stabilized using bioengineering techniques and/ or the planting of deep-rooted native species.
36. **For utility line activities authorized by NWP 12 (as well as utility lines associated with projects authorized by NWP 29 and 39)**, construction techniques to prevent draining, such as anti-seep collars, will be required for utility lines buried in waters of the United States when necessary. If no construction techniques to prevent draining are proposed, the prospective permittee must provide appropriate documentation to support that such techniques are not required to prevent drainage of waters of the United States.
37. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve temporary *structures*, fills, and/or work. To be complete, the *PCN* must also include the specifications of how pre-construction contours will be re-established and verified after construction. This notification requirement is in addition to the notification criteria listed for this NWP.
38. **For utility line activities authorized by NWP 12, (as well as utility lines associated with projects authorized by NWP 29 and 39)**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, prior to commencing the activity if the activity will involve maintained utility crossings. To be complete, the *PCN* must also include a justification for the required width of the maintained crossing that impacts waters of the United States. This notification requirement is in addition to the notification criteria listed for this NWP.
39. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the construction of a sub-station in waters of the United States. To be complete, the *PCN* must also include a statement of avoidance and minimization for the *loss of waters of the United States* impacted by the utility line sub-station. This requirement is in addition to the *PCN* requirements listed in General Condition #32.
40. **For NWP 12**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32 prior to commencing the activity if the activity will involve the permanent conversion of forested wetlands to herbaceous wetlands. To be complete, the *PCN* must also include the acreage of conversion impacts of waters of the United States and a *compensatory mitigation* proposal or a statement of why *compensatory mitigation* should not be required. This requirement is in addition to the *PCN* requirements listed in General Condition #32.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

41. **For NWP 13 activities, NWP 54 activities, and living shoreline projects authorized by NWP 27** that require submittal of a *PCN*, the *PCN* must include the following information:

- a. Habitat type along the shoreline;
- b. The presence of stabilization *structures* in the vicinity of the project;
- c. Cause/s, extent, and approximate rate of erosion (if known);
- d. Site specific information which may include: shoreline orientation, slope, bank height, tidal range, nearshore bathymetry, fetch, substrate stability, etc.;
- e. Rationale for selecting the preferred stabilization technique;
- f. A statement that structural materials toxic to aquatic organisms will not be used and if stone is proposed, a statement that only clean stone, free of exposed rebar, asphalt, plastic, soil, etc., will be used; and
- g. A statement that filter fabric will be used as appropriate when stone or other heavy material is proposed.

These requirements are in addition to the *PCN* requirements listed in General Condition #32.

42. Projects qualifying for **NWP 27 and/or NWP 54** will require coordination with appropriate Federal, State, and local agencies. The coordination activity will be conducted by the Corps of Engineers. Agencies will generally be granted 15 days to review and provide comments unless the District Engineer determines that an extension of the coordination period is reasonable and prudent.

43. **For NWP 29**, the *loss of waters of the United States* is limited to a maximum of 1/4-acre for a single family residence.

44. **For NWPs 29 and 39**, the *discharges* of dredged or fill material for the construction of *stormwater management facilities* in *perennial streams* are not authorized.

45. **For NWP 33**, the prospective permittee must submit a *PCN* to the District Engineer in accordance with General Condition #32, for temporary construction, access, and dewatering activities that occur in non-tidal waters of the United States, including wetlands. In addition, the *PCN* shall include a restoration plan.

46. **For NWP 36**, only one boat ramp may be constructed on a single lot or tract of land (e.g., each lot within a subdivision).

47. **For NWP 38**, the *PCN* must contain the following information:

- a. documentation that the specific activities are required to effect the containment, stabilization, or removal of hazardous or toxic waste materials as performed, ordered, or sponsored by a government agency with established legal or regulatory authority;
- b. a narrative description indicating the size and location of the areas to be restored, the work involved and a description of the anticipated results from the restoration; and

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

c. a plan for the monitoring, operation, or maintenance of the restored area.

This requirement is in addition to the *PCN* requirements listed in General Condition #32.

48. **For NWP 41**, a *PCN* must be submitted to the District Engineer for projects that require mechanized land clearing in waters of the United States, including wetlands, in order to access or perform reshaping activities.
49. **NWP 41** is prohibited in channelized streams or stream relocation projects that exhibit natural stream characteristics and/or perform natural stream functions.
50. **For NWP 48**, changing from bottom culture to floating or suspended culture will require submittal of a *PCN* to the District Engineer. Additionally, new aquaculture activities involving suspended or floating culture will require submittal of a *PCN* to the District Engineer. Refer to the *PCN* requirements listed in General Condition #32. Note: If the District Engineer determines that the proposed floating or suspended culture will result in more than minimal adverse environmental effects, an Individual Permit will be required for the proposed activity.
51. **For NWP 48**, when a new commercial shellfish aquaculture activity will occur adjacent to property that is not owned by the prospective permittee, the activity will require submittal of a *PCN* to the District Engineer. The *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A map or depiction that shows the adjacent property(ies) and adjacent property owners' contact information. Note: This information may be obtained online from the applicable county's tax information pages.
 - b. A signed letter(s) of "no objection" to the proposed commercial shellfish activity from each of the adjacent property owner(s). Each letter shall include the name, mailing address, property address, property Tax Map Parcel (TMS) number, and signature of the property owner.
52. **For NWP 53**, the *PCN* must include a Tier I evaluation, in accordance with the Inland Testing Manual, for the project area immediately upstream of the low-head dam. If the Tier I evaluation indicates contaminated sediments are present, a Tier II evaluation may be required.
53. **For NWP 54 projects and living shoreline and/or oyster restoration projects authorized by NWP 27**, the *PCN* must include the following information in addition to the *PCN* requirements listed in General Condition #32:
 - a. A plan view project sketch that shows the proposed project footprint; the Mean High Water (MHW) Line; the Mean Low Water (MLW) Line; marsh line (if applicable); shoreline; width of the waterway at the project location; location of adjacent *structures*,

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

such as docks and boat ramps (if applicable); distance of the project footprint from the MHW line; distance of the project footprint from adjacent *structures*; and proposed location of informational or navigation markers. Refer to c. and d. below, if applicable. Note: Refer to Regional Condition #11 if the proposed project is located in or adjacent to an authorized Federal Navigation project for the additional information that will be required.

b. A cross-section sketch that shows the height of the proposed project above substrate and the water depth at MHW Line and MLW Line in relation to the proposed project.

c. For projects that are 18 inches or less in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell and wooden sills, informational signs to alert boaters to the presence of the project area will be required. The *PCN* must include a depiction and description of proposed informational signs. The signs must be made of reflective material or must include reflective tape on the sign or sign post. The signs must be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: The prospective permittee shall be made aware that the U.S. Coast Guard (USCG) may require the project area to be marked. Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding possible markers and/or lighting requirements. The permittee shall install all markers and/or lighting as required by the USCG. In the event that the USCG does not require markers or lighting, the permittee shall mark the project area with Corps approved informational signs as described above. Note 3: These requirements will be added to the NWP verification as special conditions.

d. For projects that are more than 18 inches in height above substrate AND consist of hard *structures* or fill material, such as, but not limited to, riprap, oyster castles, bagged oyster shell, and wooden sills, the prospective permittee must mark the project area with diamond-shaped white day markers with orange border and black print stating “Danger Obstruction”. The signs shall be located at each end of the project area and at 100-foot increments along the project area, if applicable. Note 1: Projects that include ONLY the use of loose shell will not require the installation of informational or navigational signs. Note 2: Prior to commencing work, the permittee shall contact the USCG at U. S. Coast Guard Charleston District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL 33131, or by phone at 305-415-6755 or 305-415-6750, regarding potential project specific approval of the markers. The permittee shall install all markers and/or lighting as required by the USCG. In the event the USCG does not require these or other markers and/or lighting, the “Danger Obstruction” markers are still required by the Corps. Note 3: These requirements will be added to the NWP verification as special conditions.

2017 APPROVED
NATIONWIDE PERMIT REGIONAL GENERAL CONDITIONS
FOR SOUTH CAROLINA (REVISED)

** For the purpose of these regional conditions, the term “stream bed” also includes features determined to be a “tributary” and a “relatively permanent water.”

Note 1: For the purpose of these regional conditions, bankfull is defined as the top-of-bank to top-of bank of the channel in a cross-sectional view.

Note 2: Regional conditions # 14, #15, and #53d were revised on September 7, 2017.



September 21, 2021

Mr. Ray Funnye
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, SC 29442
rcfunnye@gtcounty.org

Re: 401 Certification for Authorization To Impact Not More Than 0.078 acre of Waters of The US, Including Wetlands Pursuant to Nationwide Permit 14 (Linear Transportation Projects)

Applicant Permit ID No.: SAC 2020-01773

Applicant: Georgetown County Public Works

County: Georgetown

Project: Arapacho Drive & Navajo Trail Improvements

Dear Mr. Funnye:

The US Army Corps of Engineers (Corps) issued a final notice in the Federal Register on January 6, 2017 reissuing the Corps' Nationwide Permits (NWP). NWP authorize activities that have minimal individual and cumulative adverse effects on the aquatic environment. On March 7, 2017, the South Carolina Department of Health and Environmental Control (Department) certified the NWP in accordance with Section 401 of the Clean Water Act and the S.C. Coastal Zone Management Act (48-39-10 et seq.).

The Department has reviewed the above-reference project in accordance with the March 7, 2017 certification and, provided the applicant adheres to the certification conditions outlined in the attached document, the Department has determined that there is a reasonable assurance that the work authorized will be conducted in a manner consistent with the certification requirements of Section 401 of the Clean Water Act. Please be advised that, since this project is located in the coastal zone, you should check with the Department's Office of Ocean and Coastal Resource Management (OCRM) to ensure that the project is consistent with the SC Coastal Zone management Act. If you have any questions, please call or email me at (803) 898-4179 or amedeemd@dhec.sc.gov.

Sincerely,

Morgan Amedee

Morgan D. Amedee
Water Quality Certification and Wetlands Section

cc: USACOE Conway Field Office
Mr. Judson Goff
OCRM

Nationwide Permit Number 14: Linear Transportation Projects

Proposed Conditions of the 401 Water Quality Certification:

1. A compensatory mitigation plan must be submitted and approved by the SCDHEC for projects with permanent impacts exceeding 0.10 acres or 300 linear feet.
2. Linear transportation projects must cross perpendicular (to the extent practicable) to the aquatic site area. Impacts certified under this NWP must be limited to three crossings per single and complete project and must be in non-tidal wetlands only.
3. This NWP is not certified for activities located in or adjacent to (as determined by SCDHEC) waters defined (as per Regulation 61-68) as Outstanding National Resource Waters (ONRW), Outstanding Resource Waters (ORW), or Trout Waters.
4. This NWP is not certified for activities that cause the loss of more than 300 linear feet of stream bed.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT
1949 INDUSTRIAL PARK ROAD, ROOM 140
CONWAY, SOUTH CAROLINA 29526

September 20, 2021

Regulatory Division

Mr. Ray Funnye
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, SC 29442
rcfunnye@gtcounty.org

Dear Mr. Funnye:

This is in response to your request received in our office on August 3, 2021. In submitting the application, you requested verification that the proposed project is authorized under the Department of the Army Nationwide Permit (NWP) Program. The work affecting waters of the United States is part of an overall project known as Arapaho Drive and Navajo Trail Improvements. The project is located east of the Black River along portions of Arapaho Drive and Navajo Trail in Georgetown County, South Carolina (Latitude: 33.515°, Longitude: -79.4113°).

Department of the Army authorization is necessary because your project will involve work in waters of the U.S.

As of September 17, 2021, more than 45 calendar days have passed since your pre-construction notice was received. In accordance with 2017 NWP General Condition 32(a)(2), you were authorized to begin your activity under Nationwide Permit #14, on September 17, 2021, since you did not receive written notice from the district or division engineer.

It is incumbent upon you to construct your activity in compliance with the terms and conditions of the NWP. The 2017 NWPs along with the current Regional and General Conditions can be accessed by clicking on "Nationwide Permits" at the following website:

<https://www.sac.usace.army.mil/Missions/Regulatory/Permitting-Process/>

The Nationwide Permits are due to expire on March 18, 2022, unless the NWPs are modified, reissued, or revoked. It is incumbent upon you to remain informed of changes to the NWPs. You may still need State or local consent. Prior to performing the work, you should contact the South Carolina Department of Environmental Control, Bureau of Water and/or the Office of Ocean and Coastal Resource Management. A copy of this notification is being forwarded to State and/or Federal agencies for their information.

In all future correspondence, please refer to file number SAC-2020-01773. A copy of this letter is forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Erica L. Stone, Project Manager, at (843) 365-4239, or by email at Erica.L.Stone@usace.army.mil.

Sincerely,



Erica L. Stone
Project Manager

Copies Furnished:

Mr. Judson Goff
Red Bay Environmental
720 Hawksbill Court
Mount Pleasant, South Carolina 29464
jagoff@redbayenvironmental.com

SC DHEC - Bureau of Water
2600 Bull Street
Columbia, South Carolina 29201
WQCWetlands@dhec.sc.gov

SC DHEC - OCRM
1362 McMillan Avenue, Suite 400
North Charleston, South Carolina 29405
OCRMPermitting@dhec.sc.gov

**Joint Federal and State Application Form
For Activities Affecting Waters of the United States
Or Critical Areas of the State of South Carolina**

This Space for Official Use Only

Application No. _____
 Date Received _____
 Project Manager _____
 Watershed # _____

RECEIVED

By Dorothy Swearingin at 1:11 pm, Aug 03, 2021

Authorities: 33 USC 401, 33 USC 403, 33 USC 407, 33 USC 408, 33 USC 1341, 33 USC 1344, 33 USC 1413 and Section 48-39-10 et. Seq of the South Carolina Code of Laws. These laws require permits for activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. The Corps of Engineers and the State of South Carolina have established a joint application process for activities requiring both Federal and State review or approval. Under this joint process, you may use this form, together with the required drawings and supporting information, to apply for both the Federal and/or State permit(s).

Drawings and Supplemental Information Requirements: In addition to the information on this form, you must submit a set of drawings and, in some cases, additional information. A completed application form together with all required drawings and supplemental information is required before an application can be considered complete. See the attached instruction sheets for details regarding these requirements. You may attach additional sheets if necessary to provide complete information.

1. Applicant Last Name:		11. Agent Last Name (agent is not required):	
2. Applicant First Name:		12. Agent First Name:	
3. Applicant Company Name:		13. Agent Company Name:	
4. Applicant Mailing Address:		14. Agent Mailing Address:	
5. Applicant City:		15. Agent City:	
6. Applicant State:	7. Applicant Zip:	16. Agent State:	17. Agent Zip:
8. Applicant Area Code and Phone No.:		18. Agent Area Code and Phone No.:	
9. Applicant Fax No.:		19. Agent Fax No.:	
10. Applicant E-mail:		20. Agent E-mail:	

21. Project Name:		22. Project Street Address:	
23. Project City:	24. Project County:	25. Project Zip Code:	26. Nearest Waterbody:
27. Tax Parcel ID:		28. Property Size (acres):	
29. Latitude:		30. Longitude:	

31. Directions to Project Site (Include Street Numbers, Street Names, and Landmarks and attach additional sheet if necessary):

32. Description of the Overall Project and of Each Activity in or Affecting U.S. Waters or State Critical Areas (attach additional sheets if needed)

33. Overall Project Purpose and the Basic Purpose of Each Activity In or Affecting U.S. Waters (attach additional sheets if needed):

34. Type and quantity of Materials to Be Discharged

Dirt or Topsoil:	_____	<input type="checkbox"/> cubic yards
Clean Sand:	_____	<input type="checkbox"/> cubic yards
Mud:	_____	<input type="checkbox"/> cubic yards
Clay:	_____	<input type="checkbox"/> cubic yards
Gravel, Rock, or Stone:	_____	<input type="checkbox"/> cubic yards
Concrete:	_____	<input type="checkbox"/> cubic yards
Other (describe):	_____	<input type="checkbox"/> cubic yards
TOTAL:	_____	cubic yards

35. Type and Quantity of Impacts to U.S. Waters (including wetlands).

Filling:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Backfill & Bedding:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Landclearing:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Dredging:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Flooding:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Draining/Excavation:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
Shading:	_____	<input type="checkbox"/> acres	<input type="checkbox"/> sq.ft.	_____	<input type="checkbox"/> cubic yards	
TOTALS:	_____	acres	_____	sq.ft.	_____	cubic yards

36. Individually list wetland impacts including mechanized clearing, fill, excavation, flooding, draining, shading, etc. and attach a site map with location of each impact (attach additional sheets if needed).

Impact No.	Wetland Type	Distance to Receiving Water body (LF)	Purpose of Impact (road crossing, impoundment, flooding, etc)	Impact Size (acres)
Wetland A & B	PFO1B	Approx.325 LF to Black River	Improvements to Existing Roadway	0.073 ac fill, 0.001 ac ex., 0.004 ac clear
Total Wetland Impacts (acres)				0.078 Acres

37. Individually list all seasonal and perennial stream impacts and attach a site map with location of each impact (attach additional sheets)

Impact No.	Seasonal or Perennial Flow	Average Stream Width (LF)	Impact Type (road crossing, impoundment, flooding, etc)	Impact Length (LF)
Total Stream Impacts (Linear Feet)				N/A

38. Have you commenced work on the project site? YES NO If yes, describe all work that has occurred and provide dates.

39. Describe measures taken to avoid and minimize impacts to Waters of the United States:

The proposed roadway improvements have been designed to minimize impacts to the adjacent wetlands/waters to the maximum extent practicable while ensuring that the improvements can be implemented and still provide an increase in public traffic safety and a stable roadway crossing.

40. Provide a brief description of the proposed mitigation plan to compensate for impacts to aquatic resources or provide justification as to why mitigation should not be required (Attach a copy of the proposed mitigation plan for review).

Due to the cumulatively minor impacts (0.078 acres) required for the proposed roadway improvements, no compensatory mitigation is proposed.

41. See the attached sheet to list the names and addresses of adjacent property owners.

N/A

42. List all Corps Permit Authorizations and other Federal , State, or Local Certifications, Approvals, Denials received for work described in this application.

USACE Jurisdictional Determination (SAC-2020-01773) is currently in processing.

43. Authorization of Agent. I hereby authorize the agent whose name is given on page one of this application to act in my behalf in the processing of this application and to furnish supplemental information in support of this application.

[Handwritten Signature]
Applicant's Signature

6/18/2021
Date

44. Certification. Application is hereby made for a permit or permits to authorize the work and uses of the work as described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent for the applicant.

[Handwritten Signature]
Applicant's Signature

6/18/2021
Date

[Handwritten Signature]
Agent's Signature

07/23/21
Date

¹The application must be signed by the person who desires to undertake the proposed activity or it may be signed by a duly authorized agent if the authorization statement in blocks 11 and 43 have been completed and signed. 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

Project Number: SAC-2020-01773

Name of Permittee: Ray Funnye / Georgetown County

Date of Issuance: September 20, 2021

Upon completion of the activity authorized by this Nationwide Permit/General Permit authorization letter, including any compensatory mitigation, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Regulatory Division – Northeast Branch
1949 Industrial Park Road, Suite 140
Conway, South Carolina 29526

Please note that the authorized activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your Nationwide Permit authorization letter this office may suspend, modify, or revoke this authorization.

PM:ES

=====

I hereby certify that the work authorized by the above referenced Nationwide Permit/General Permit authorization letter has been completed in accordance with the terms and conditions of said authorization letter, including the performance of any required compensatory mitigation.

Signature of Permittee