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April 23, 2012

Lieutenant Colonel Edward P. Chamberlayne P.E., Commander
U.S. Army Corps of Engineers
69A Hagood Avenue
Charleston, SC 29403-5107

Re: Certification in Accordance with Section 401 of the Clean Water Act, as amended.
Certification of Consistency with the S.C. Coastal Zone Management Program

Dear Lieutenant Colonel Chamberlayne:

The South Carolina Department of Health and Environmental Control's (Department) Bureau of Water and the Office of Ocean and Coastal Resource Management have reviewed the U.S. Army Corps of Engineers' proposal to amend the Nationwide Permit program regulations. In accordance with agency procedures, the Department issued a Notice of Department Decision on April 06, 2012, taking action on these Nationwide Permits. Department staff determined that provided the proposed actions listed below (and in the attached table) are implemented and the proposed conditions outlined in the April 06, 2012 Notice of Department Decision are adhered to, there is a reasonable assurance that work authorized will be conducted in a manner consistent with the certification requirements of Section 401 of the Federal Clean Water Act (CWA), as amended, and the Coastal Zone Management Act (48-39-10 et.seq.).

In accordance with the provisions of Section 401, we certify that the indicated Nationwide Permits, subject to the provided conditions, are consistent with applicable provisions of Section 303 of the CWA, as amended. We also hereby certify that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307 of the CWA. The attached general conditions apply to all Nationwide Permits.

Certification and Finding of Consistency

401 Water Quality Certification issued without conditions

3. Maintenance
4. Fish & Wildlife Harvesting, Enhance, Attract Devices, & Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
13. Bank Stabilization
15. U.S. Coast Guard Approved Bridges
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
22. Removal of Vessels
25. Structural Discharges
27. Aquatic Habitat Restoration, Establish & Enhancement Activities
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Activities
33. Temporary Construction, Access, and Dewatering
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
45. Repair of Uplands Damaged by Discrete Events
48. Commercial Shellfish Aquaculture Activities

Coastal Zone Consistency Certification issued without conditions

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish & Wildlife Harvesting, Enhance, Attract Devices, & Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
13. Bank Stabilization
15. U.S. Coast Guard Approved Bridges
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil and Hazardous Substances
22. Removal of Vessels
25. Structural Discharges
27. Aquatic Habitat Restoration, Establish & Enhancement Activities
28. Modifications of Existing Marinas
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Activities
33. Temporary Construction, Access, and Dewatering

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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401 Water Quality Certification issued without conditions	Coastal Zone Consistency Certification issued without conditions
	36. Boat Ramps 37. Emergency Watershed Protection and Rehabilitation 38. Cleanup of Hazardous and Toxic Waste 40. Agricultural Activities 41. Reshaping Existing Drainage Ditches 45. Repair of Uplands Damaged by Discrete Events 48. Commercial Shellfish Aquaculture Activities
401 Water Quality Certification issued with conditions	Coastal Zone Consistency Certification issued with conditions
12. Utility Line Activities 14. Linear Transportation Projects 23. Approved Categorical Exclusions 29. Residential Developments 39. Commercial and Institutional Development 42. Recreational Facilities 43. Stormwater Management Facilities 44. Mining Activities 46. Discharge in Ditches	12. Utility Line Activities 14. Linear Transportation Projects 23. Approved Categorical Exclusions 29. Residential Developments 39. Commercial and Institutional Development 42. Recreational Facilities 44. Mining Activities 46. Discharge in Ditches

Denial and Finding of Inconsistency

The Department has determined that there is not a reasonable assurance that work authorized by the following Nationwide Permits will be conducted in a manner consistent with the certification requirements of Section 401 of the CWA, as amended, or the Coastal Zone Management Act (48-39-10 et.seq.). In accordance with the provisions of Section 401 and the S.C. Coastal Zone Management Program, we deny 401 Water Quality Certification and Coastal Zone Consistency Certification for these Nationwide Permits.

401 Water Quality Certification denied	Coastal Zone Consistency Certification denied
16. Return Water From Upland Cont. Disposal Areas 17. Hydropower Projects 21. Surface Coal Mining Activities 34. Cranberry Production 49. Coal Remining Activities 50. Underground coal Mining Activities 51. Land-Based Renewable Energy Generation Facilities 52. Land-Based Renewable Energy Generation Pilot Projects	16. Return Water From Upland Cont. Disposal Areas 17. Hydropower Projects 21. Surface Coal Mining Activities 24. Indian Tribe or State Administered Section 404 Programs 34. Cranberry Production 35. Maintenance Dredging of Existing Basins 43. Stormwater Management Facilities 49. Coal Remining Activities 50. Underground coal Mining Activities 51. Land-Based Renewable Energy Generation Facilities 52. Land-Based Renewable Energy Generation Pilot Projects

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April 23, 2012

If you have any questions, please contact Heather Preston at (803) 898-3105 or prestohs@dhec.sc.gov or Rheta Geddings DiNovo at (843) 953-0256 or dinovorg@dhec.sc.gov.

Sincerely,



Heather S. Preston, Director
Bureau of Water
Environmental Quality Control



Rheta Geddings DiNovo, Director
Regulatory Division
Office of Ocean and Coastal Resource Management

Nationwide Permit Number & Topic	401 Cert Action	CZC Cert Action (Outside of the Critical Area)
1. Aids to Navigation	N/A	Issue
2. Structures in Artificial Canals	N/A	Issue
3. Maintenance	Issue	Issue
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities	Issue	Issue
5. Scientific Measurement Devices	Issue	Issue
6. Survey Activities	Issue	Issue
7. Outfall Structures and Associated Intake Structures	Issue	Issue
8. Oil and Gas Structures on the Outer Continental Shelf	N/A	Issue
9. Structures in Fleeting and Anchorage Areas	N/A	Issue
10. Mooring Buoys	N/A	Issue
11. Temporary Recreational Structures	N/A	Issue
12. Utility Line Activities	Issue w/ Cond	Issue w/ Cond
13. Bank Stabilization	Issue	Issue
14. Linear Transportation Projects	Issue w/ Cond	Issue w/ Cond
15. U.S. Coast Guard Approved Bridges	Issue	Issue
16. Return Water From Upland Contained Disposal Areas	Deny	Deny
17. Hydropower Projects	Deny	Deny
18. Minor Discharges	Issue	Issue
19. Minor Dredging	Issue	Issue
20. Response Operations for Oil and Hazardous Substances	Issue	Issue
21. Surface Coal Mining Operations	Deny	Deny
22. Removal of Vessels	Issue	Issue
23. Approved Categorical Exclusions	Issue w/ Cond	Issue w/ Cond
24. Indian Tribe or State Administered Section 404 Programs	N/A	Deny
25. Structural Discharges	Issue	Issue
26. [Reserved]	N/A	N/A
27. Aquatic Habitat Restoration, Establishment & Enhancement Activities	Issue	Issue
28. Modifications of Existing Marinas	N/A	Issue
29. Residential Developments	Issue w/ Cond	Issue w/ Cond
30. Moist Soil Management for Wildlife	Issue	Issue
31. Maintenance of Existing Flood Control Facilities	Issue	Issue
32. Completed Enforcement Actions	Issue	Issue
33. Temporary Construction, Access and Dewatering	Issue	Issue
34. Cranberry Production Activities	Deny	Deny
35. Maintenance Dredging of Existing Basins	N/A	Deny
36. Boat Ramps	Issue	Issue
37. Emergency Watershed Protection and Rehabilitation	Issue	Issue
38. Cleanup of Hazardous and Toxic Waste	Issue	Issue
39. Commercial and Institutional Developments	Issue w/ Cond	Issue w/ Cond
40. Agricultural Activities	Issue	Issue
41. Reshaping Existing Drainage Ditches	Issue	Issue
42. Recreational Facilities	Issue w/ Cond	Issue w/ Cond
43. Stormwater Management Facilities	Issue w/ Cond	Deny
44. Mining Activities	Issue w/ Cond	Issue w/ Cond
45. Repair of Uplands Damaged by Discrete Events	Issue	Issue
46. Discharges in Ditches	Issue w/ Cond	Issue w/ Cond
47. [Reserved]	N/A	N/A
48. Commercial Shellfish Aquaculture Activities	Issue	Issue
49. Coal Remining Activities	Deny	Deny
50. Underground Coal Mining Activities	Deny	Deny
51. Land-Based Renewable Energy Generation Facilities	Deny	Deny
52. Land-Based Renewable Energy Generation Pilot Projects	Deny	Deny