STATE OF NORTH CAROLINA DEPARTMENT OF

ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF WATER QUALITY

Version 1.0

April 7, 2011

STATE GENERAL PERMIT FOR IMPACTS TO ISOLATED AND OTHER NON-404 JURISDICTIONAL WETLANDS AND WATERS

PERMIT NUMBER: IWGP100001

**FOR PROJECTS WHICH IMPACT LESS THAN 3 (THREE) ACRES OF ISOLATED AND OTHER NON-404 WETLANDS FOR THE PURPOSE OF ENHANCING HYDROLOGY AND AMPHIBIAN HABITAT THRU VEGETATION AND SURFACE SOIL REMOVAL**

In accordance with the provisions of Article 21 of Chapter 143, General Statutes of North Carolina as amended and other lawful standards and regulations, including 15A NCAC 2H .1300 and 15A NCAC 2B .0200, promulgated and adopted by the North Carolina Environmental Management Commission.

Permission is hereby granted to all owners or operators of activities which impact isolated and other non-404 wetlands, isolated streams or other isolated waters in accordance with the conditions set forth in this General Permit.

This General Permit shall become effective on \*\*\*\*\*.

This General Permit shall expire at midnight on \*\*\*\* or unless otherwise rescinded or until deemed appropriate by the Director of the NC Division of Water Quality (DWQ).

Coleen H. Sullins, Director

Division of Water Quality

By the Authority of the

NC Environmental Management Commission

This General Permit is issued in conformity with the requirements of North Carolina Division of Water Quality (DWQ) regulations in 15A NCAC 2H .1300 for the discharge of fill material to isolated and other non-404 wetlands and isolated waters of the State of North Carolina. This Permit may be rescinded when deemed appropriate by the Director of DWQ after appropriate public notice.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

**Activities which propose to impact up to three (3) acres of isolated or other non-404 wetlands when conducted for the purpose of enhancing hydrology and amphibian habitat thru vegetation and surface soil removal do not need written approval from DWQ if all the other conditions of this Permit are met.**

**The objective of this work shall be to enhance the hydrology and habitat functions for selected isolated wetlands in certain locations in order to reestablish the natural hydrology and aquatic habitat for the wetland by removing vegetation as well as the duff layer and the immediately underlying soil layer through mechanical and other means. The primary target habitat is isolated, ephemeral wetlands with native emergent herbaceous vegetation and an extended but not permanent hydroperiod. This habitat is essential for breeding for rare amphibians and other species in the NC coastal plain and sandhills. Wetland restoration activities should be conducted in conjunction with appropriate management of adjacent upland habitats to maximize benefits for target species which include Carolina gopher frog (*Lithobates capito*), tiger salamander (*Ambystoma tigrinum*), ornate chorus frog (*Pseudacris ornata*), and species of similar habitat requirements.**

1. **Geographic scope** – This General Permit is only available in the Southeastern Plains Level III Ecoregion (Ecoregion number 65) as depicted on Griffith, et al (2002) “Ecoregions of North and South Carolina. United States Geological Survey, Reston, VA.
2. **Eligible parties** – This General Permit is only available for activities conducted by the NC Wildlife Resources Commission, the US Forest Service, NC Wildlife Resources Commission, The Nature Conservancy or NC Ecosystem Enhancement Program and directed by the NC Wildlife Resources Commission.
3. **Delineation of isolated or non-404 wetlands** – The US Army Corps of Engineers shall be contacted by the Permittee to provide written assurance that the wetlands are indeed isolated or non-404 wetlands. If the Corps is unwilling or unable to provide such written assurance, then DWQ shall be contacted to provide such written assurance. Impacts to these wetlands shall not occur until written concurrence as to their isolated status is obtained from either the Corps of Engineers or Division of Water Quality.
4. **Annual reports** – Annual reports shall be submitted to the Division of Water Quality by January 10 of each year. The report will be the responsibility of the lead agency on any wetland restoration activity or monitoring conducted during the past calendar year. hese reports shall describe any use of this General Permit during the previous calendar year and also transmit any monitoring data required to be gathered by this General Permit. DWQ shall review the annual reports and require modification of monitoring or enhancement activities as appropriate.
5. **Wetland types** – This General Permit is only available for wetlands classified as “Basin Wetlands” by Version 4 of the NC Wetland Assessment Method. In addition where present, cypress (*Taxodium* *distichum* or *T*. *ascendens*) shall not be reduced to less than 20% aerial coverage. DWQ shall be consulted on a case-by-case basis in wetlands containing swamp tupelo (*Nyssa* *aquatica*) to determine appropriate vegetation management. Sites with aerial coverage by these species that exceed these thresholds may apply for Individual Isolated Wetland Permit issued by the Division of Water Quality.
6. **State and federally endangered plants** – A pre-impact survey for state and federal rare, threatened and endangered plants must be made by a qualified botanist and submitted to DWQ with the annual report. If any such plants are present, then DWQ must provide written approval to manage those plants before impact.
7. **Monitoring** – All wetland sites which are affected by this General Permit must conduct the following monitoring before the impact and annually after the impact for a period of from four (4) to seven (7) years. These results must be submitted to DWQ in the annual reports. If sufficient data have been collected after four years to determine the extent of any environmental impact, then DWQ may eliminate the additional monitoring on a particular site based on a written request and written approval from DWQ.
	1. Water levels – static or continuous recording done at least monthly if surface water is present for the first year and then twice a year when surface water is present for the remaining of the monitoring period.
	2. pH – testing must be done at least monthly if surface water is present for the first year of monitoring and at least twice a season in following years.
	3. Photo documentation from fixed locations – annually.
	4. Amphibian use – annually using one of the following methods during appropriate sampling periods: calling surveys, egg mass surveys, dipnet (larval) surveys, drift fence surveys as recommended by the applicant, approved by DWQ, and coordinated by the WRC.
	5. Vegetation – annually using a combination of levels 2 and 3 of the Carolina Vegetation Survey methodology. This method will allow for documentation of changes in community occurrence data (level 3 plots) and changes in woody stem occurrence (level 2 plots) before and after wetland enhancement activities occur.
8. **Site manipulation allowed** – Scraping and removal of vegetation is allowed on these sites with the following restrictions:
	1. Vegetation and the surface layer of the soil may be removed by mechanical means as long as all removed material is placed on high ground and stabilized to prevent erosion. The NC Division of Land Resources must be contacted to determine if an erosion and sedimentation control permit is needed for the work.
	2. The final grading elevation must be such that permanent water is not present in these sites. If these sites are graded such that permanent ponded water is present, consultation with, and approval from DWQ as to appropriate remediation is required. In case of dispute, the presence of permanent ponded water shall be determined by DWQ staff during site visits in the summer months during a non-drought condition.
	3. No additional fill of any kind shall be placed in the wetland except that native soil may be used to plug existing ditches or restore appropriate topography that has been unnaturally altered in the wetland
	4. Seasonality – The grading allowed by this General Permit shall only be conducted during the time of the year that amphibian use of these wetlands for reproduction and habitat is not present. The timing of any grading shall be reported in the annual reports to DWQ.
9. **Compensatory mitigation** – Compensatory mitigation shall not be required by this General Permit since wetland uses are not lost. If this activity is proposed for compensatory mitigation credit, the project will require application to and an Individual Isolated Wetland Permit from DWQ. Public Notice will also be required for this type of activity. If based on monitoring and site visits, wetland loss exceeds more than one acre on any particular site, then compensatory mitigation will be required by DWQ in accordance with 15A NCAC 2H .1305 (g) (2).
10. **Other conditions** – The following conditions are incorporated from the State General Permit for Impacts to Isolated and Other Non-404 Jurisdictional Wetlands and Waters Permit Number: IWGP100000 dated October 31, 2008
	1. No impacts beyond those authorized in the written approval or beyond the threshold of use of this Permit.

No waste, spoil, solids, or fill of any kind shall occur in isolated and other non-404 wetlands, isolated waters, or isolated riparian areas beyond the footprint of the impacts depicted in this General Permit including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices, shall be performed so that no violations of state water quality standards, statutes, or rules occur.

* 1. Standard Erosion and Sediment Control Practices

Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices:

1. Design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
2. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
3. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
4. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
5. If the project occurs in waters or watersheds classified as Primary Nursery Areas PNAs), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sediment and erosion control requirements contained within *Design Standards in Sensitive Watersheds* (15A NCAC 04B .0124) supercede all other sediment and erosion control requirements.
	1. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures should not be placed in wetlands or waters without prior approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or stream beds or banks, adjacent to or upstream and down stream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources or locally delegated program has released the project.

* 1. Construction Stormwater Permit NCG010000

Upon the approval of an Erosion and Sedimentation Control Plan issued by the Division of Land Resources (DLR) or a DLR delegated local erosion and sedimentation control program, an NPDES General stormwater permit (NCG010000) administered by the Division is automatically issued to the project. This General Permit allows stormwater to be discharged during land disturbing construction activities as stipulated by conditions in the permit. If your project is covered by this permit [applicable to construction projects that disturb one (1) or Isolated Wetlands General Permit (IWGP100000) 5 more acres], full compliance with permit conditions including the sedimentation control plan, self-monitoring, record keeping and reporting requirements are required. A copy of this permit and monitoring report forms may be found at [*http://h2o.enr.state.nc.us/su/Forms\_Documents.htm*](http://h2o.enr.state.nc.us/su/Forms_Documents.htm)*.*

* 1. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities. This condition can be waived through written concurrence on a case by case basis upon reasonable justification. All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to lessen impacts on trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented. This condition can be waived through written concurrence on a case by case basis upon reasonable justification. Work within identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, or USFWS, personnel.

* 1. Riparian Area Protection (Buffer) rules

Activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not), within the Neuse, Tar-Pamlico, Catawba, or Randleman (or any other basin with buffer rules), shall be limited to “uses” identified within and constructed in accordance with 15A NCAC 2B .0233, .0259, .0250 and .0243, and shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. All buffer rule requirements, including diffuse flow requirements, must be met.

* 1. Water Supply Watershed Buffers

The 30-foot wide vegetative buffer (low-density development) or the 100-foot wide vegetative buffer (high-density development) shall be maintained adjacent to all perennial waters except for allowances as provided in the Water Supply Watershed Protection Rules [15A NCAC 2B .0212 through .0215].

* 1. NEPA or SEPA documentation

If an environmental document is required under the National or State Environmental Policy Act (NEPA or SEPA), then this General Permit is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.

* 1. Conductance of activities in compliance with state water quality standards

The applicant/permittee and their authorized agents shall conduct all activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act), and any other appropriate requirements of State and Federal Law. If the Division determines that such standards or laws are not being met, including failure to sustain a designated or achieved use, or that State or Federal law is being violated, or that further conditions are necessary to assure compliance, then the Division may reevaluate and modify this General Permit.

1. **Other provisions of this General Permit**

This Permit is not transferable to any person or entity except after notice to and written approval by the Director. The Director may require modification or revocation or reissuance of this Permit to change the name and incorporate such other requirements as may be necessary. A formal request to transfer this Permit must be submitted to the Division of Water Quality accompanied by documentation from both parties and other supporting materials as may be appropriate. The approval of this request will be considered on its merits, and may or may not be approved.

The issuance of this Permit does not preclude the Permittee from complying with any and all statutes, rules, regulations, or ordinances which may be imposed by other government agencies (local, state and federal) which have jurisdiction. If any of those permits results in revisions to the plans, any revised plans must still be in compliance with this General Permit.

The Permittee grants permission to DENR staff to enter the property during business hours for the purposes of inspections and compliance review.

Non-compliance with or violation of the conditions herein set forth by a specific fill project may result in revocation of this General Permit for the project and may also result in criminal and/or civil penalties.

The Director of the Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity, if it is determined that the project is likely to have a significant adverse effect upon water quality including state or federally listed threatened or endangered aquatic species or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

Effective date: \*\*\*\*\*

DIVISION OF WATER QUALITY

By

Coleen H, Sullins

Director

History Note: This General Permit was first developed in fall 2010. This General Permit is rescinded five (5) years from the effective date or unless otherwise rescinded or until deemed appropriate by the Director of the Division of Water Quality.