

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343

<http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx>

General Permit No. 198200079
Name of Permittee: General Public
Effective Date: January 1, 2017
Expiration Date: December 31, 2021

**DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby renewed and modified by authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403-1343, and by the

**TO AUTHORIZE MAINTENANCE, REPAIR AND CONSTRUCTION ACTIVITIES
IN THE LAKES OWNED AND OPERATED BY THE WILMINGTON DISTRICT,
U.S. ARMY CORPS OF ENGINEERS WITHIN THE STATE OF NORTH
CAROLINA. THESE INCLUDE JOHN H. KERR RESERVOIR, FALLS LAKE,
B. EVERETT JORDAN LAKE AND W. KERR SCOTT RESERVOIR.**

These four lakes are Civil Works water resource development projects operated by the Wilmington District Corps of Engineers (Corps). The congressionally authorized purposes of these lakes include hydroelectric power generation, flood storage, water supply, recreation, and fish and wildlife conservation. The lakes or the portions thereof located within North Carolina fall within Regulatory jurisdiction of the Wilmington District. The lakes or portions thereof located within Virginia fall within Regulatory jurisdiction of the Norfolk District. John H. Kerr Reservoir is a navigable water of the United States and is subject to the permit requirements of Section 10 of the Rivers and Harbors Act. This general permit applies to all waters on or within lands owned or under flowage easement to the Corps. Activities authorized are:

- a. Construction of piers, boat ramps, jetties and breakwater structures and installation of dolphins, pilings, and buoys; using commonly acceptable materials such as pressure treated lumber, unsinkable flotation materials, and confined concrete.
- b. Maintenance dredging of accumulated sediments near boat basins and canals/channels where excavated material is placed and retained on high ground provided the total amount of material removed does not exceed 5,000 cubic yards.
- c. Stabilization of eroding shorelines utilizing appropriate bioengineering techniques, construction and backfill of bulkheads, and the placement of riprap material.
- d. Installation of submerged and aerial utility lines provided U.S. Coast Guard requirements for aerial lines are met and pre-project elevation contours are restored.
- e. Maintenance of existing water intake and outfall structures provided all State and Federal required authorizations have been obtained. Construction of new water intake and outfall structures are not authorized under this general permit.
- f. Dredging of accumulated sediments, when lake draw-down allows, with all excavated materials placed and retained on high ground provided the total amount of material removed does not exceed 5,000 cubic yards.

Procedures

a. Anyone wishing to accomplish work under the authority of this general permit must submit a request in writing to the Operations Project Manager (OPM) for the lake where the work would occur. The request should include: 1) name, address, and telephone number of prospective permittee; 2) lot number, street address, and directions to the project location; 3) location of the proposed project, including a vicinity map; 4) a brief description of the proposed project; 5) a plan view of the proposed project including dimensions, and 6) location, and design, if applicable, of the disposal area for any excavated material. This general permit does not supersede any of the procedures, provisions, or requirements found within the Shoreline Management plans for John H Kerr Lake and W. Kerr Scott Lake.

b. Prior to the commencement of any work, the permittee must receive written approval from the Operations Project Manager (OPM) and any required Corps real estate documents (license, lease, easement, consent to easement) authorizing work on government property. The OPM may deny requests for use of this general permit based on non-compliance with the Shoreline Management Plan, Master Plan, Operational Management Plan, or any other applicable policy or regulation. The OPM may include any additional conditions and/or restrictions that he or she determines to be appropriate.

Failure to comply with the Special and General Conditions contained herein or any conditions and/or restrictions stipulated by the Operations Manager could result in a violation of Federal law and appropriate action by the Office of the U.S. Attorney.

Special Conditions

1. For construction of piers, and boat ramps:

a. To be authorized by this general permit, all piers shall be pile-supported. Piles, dolphins, jetties and breakwater structures may be of wood, metal or precast concrete. Breakwater structures will be designed to provide for adequate water circulation landward of the structures.

b. This general permit does not authorize construction across or into any natural or manmade channel or water body in any manner that may adversely affect navigation by the general public.

c. This general permit does not authorize placement of any pier segment or structure further waterward than allowed by the applicable Shoreline Management Plan for the reservoir, when such Plan is in existence.

d. Piers and adjoining platforms, decks, and “L” and “T” sections will not cumulatively exceed the maximum allowable size of such structures identified in the reservoir’s shoreline management plan. A pier may be constructed in and over wetland areas to allow access. Such piers shall be attached to the upland at a point landward of ordinary high water. All piers that cross wetland vegetation shall be an open-pile design, up to five (5) feet wide and have minimum elevation of at least four (4) feet between the decking and the wetland substrate. The required 4-foot elevation must be achieved at or above the ordinary high water mark.

e. Wooden jetties will not extend farther than 100 feet waterward of the NWL elevation contours.

f. Wood must be pressure-treated except in areas of boathouses or boat shelters protected from the weather.

g. If the display of lights and signals on the authorized structure is not otherwise provided for by law, such lights and signals as may be prescribed by the U.S. Coast Guard will be installed and maintained by and at the expense of the permittee.

h. This general permit does not authorize any habitable structure or associated facility for non-water related use.

i. Boat ramps will not exceed 20 feet in width. Multi-lane boat ramps greater than 20 feet in width are not authorized by this general permit. During boat ramp construction and maintenance, no fill or construction material may be placed in wetlands.

j. Excavation associated with boat ramp construction or maintenance is limited to the area necessary for site preparation and all excavated material must be removed to uplands.

k. This general permit does not authorize the installation of fueling facilities on authorized structures.

l. The pouring of concrete for the construction of boat ramps must be accomplished within a temporary cofferdam unless the activity can be performed completely in the dry, such as during lake draw-down periods. The introduction of uncured concrete into surface waters is prohibited. Cofferdams left in place after construction is completed require a Section 10 permit if located in navigable waters of the United States.

2. For construction of bulkheads and backfill and placement of riprap:

a. The project must be necessary to combat an existing erosion problem. No material may be placed in excess of the minimum necessary for erosion protection.

b. Where wetlands are present along a shoreline, all shoreline stabilization activities (bio-engineering techniques, construction and backfill of bulkheads, and the placement of riprap material) must be undertaken landward of the wetlands. This general permit does not authorize the discharged of dredged of fill material within wetlands.

c. Bulkhead and riprap alignments will not extend farther waterward than an average distance of two (2) feet, maximum distance of five (5) feet from the ordinary high water mark and may not extend more than 500 feet along a shoreline.

d. Riprap, if required by the Operations Project Manager, will be placed at the base of all bulkheads and will extend a maximum of three (3) feet waterward on a 2:1 slope. All other fill material will be confined landward of bulkheads.

e. Material placed for shoreline stabilization will not exceed an average of one cubic yard per running foot placed below the plane of the ordinary high water mark. Riprap material must consist of clean rock or masonry materials. The use of metal products, organic materials, petroleum-based materials, or unsightly debris is prohibited.

f. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water.

g. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for adjacent bank stabilization.

h. Any large woody debris present at the edge of the water shall be left in place or, moved temporarily and replaced after the stabilization work is complete. If large

woody debris is moved and replaced, the debris must be adequately anchored, of sufficient weight, or installed in a manner that prevents relocation in most wave action or water flow conditions, except for extremely severe storms. Large woody debris is natural wood (trees, limbs and roots) that is greater than 4” in diameter and greater than 6’ in length.

3. For excavation and dredging:

a. Excavation for the removal of accumulated sediment from existing basins, access channels and boats slips must not exceed the lesser of the previously authorized depths or controlling depths for ingress/egress. Under no circumstances can the dredged material exceed 5,000 cubic yards. Construction of dead end canals is not permitted under this general permit. Dredging and excavation is prohibited within wetlands or vegetated shallows.

b. To avoid potential impacts to fish spawning areas, excavation activities will not occur during the months of March, April, May, or June of any year.

c. Dredging will be limited to channelward of the ordinary high water mark. Finished depths will not exceed the depth of the receiving waters channelward of the work.

d. All excavated material will be disposed of in approved upland disposal area and confined by adequate dikes or other retaining structures to prevent erosion and sedimentation into adjacent waters or wetlands. The temporary placement or double handling of excavated or fill material waterward of the ordinary high water mark is not authorized.

e. Return water from upland, contained disposal areas must comply with Water Quality Certification No. 3888, issued by the North Carolina Division of Water Resources (NCDWR) on March 19, 2012 or the current Water Quality Certification applicable to return water from upland disposal facilities.

4. For installation of submerged and aerial power lines and utility lines:

a. The minimum clearance for aerial power lines will be governed by system voltage as shown below:

Nominal System Voltage, Kilovolts	Minimum Clearance (ft) Above Bridge Clearances
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115 and below	20
138	22
161	24
230	26
350	30

500	35
700	42
750-765	45

Clearances are based on the low point of the line under conditions that produce the maximum sag considering temperature, load, wind, length, span and type of supports. Clearances for communication lines, stream gauging cables, ferry cables and other aerial crossings will be a minimum of ten (10) feet above clearances for bridges. Installation of utility lines will conform to the conditions of Nationwide Permit No. 12.

b. If the permittee must obtain an easement, license, lease or consent to easement for access to or across utility company, private or government property, such permissions must be obtained prior to commencement of work.

c. If the permitted work is on lands subject to an easement in favor of the United States for the maintenance and operation of the lake, the permittee will remove such structures and improvements at their own expense in the event that, in the judgement of the U.S. Army Corps of Engineers acting on behalf of the United States, the lands are needed at any time for any purpose within the scope of the easement. All construction within the easement, either temporary or permanent, must be in compliance with the terms and conditions of the applicable easement estate.

General Conditions

a. Except as authorized by this general permit or any Corps approved modification to this general permit, no excavation, fill or mechanized land-clearing activities shall take place within waters or wetlands, at any time in the construction or maintenance of this project. This general permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.

b. Authorization under this general permit does not obviate the need to obtain other federal, state, or local authorizations.

c. All work authorized by this general permit must comply with the terms and conditions of the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Resources or the Virginia Division of Water Quality.

d. The permittee shall employ all sedimentation and erosion control measures necessary to prevent an increase in sedimentation or turbidity within waters and wetlands outside the permit area. This shall include, but is not limited to, the immediate installation of silt fencing or similar appropriate devices around all areas subject to soil disturbance or the movement of earthen fill, and the immediate stabilization of all disturbed areas. Additionally, the project must remain in full compliance with all aspects

of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

e. The activities authorized by this general permit must not interfere with the public's right to free navigation on all navigable waters of the United States. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work for a reason other than safety.

f. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

g. The permittee, upon receipt of a notice of revocation of the permit for the verified individual activity, may apply for an individual permit, or will, without expense to the United States and in such time and manner as the Secretary of the Army or his/her authorized representative may direct, restore the affected water of the United States to its former conditions.

h. The permittee will allow the U.S. Army Corps of Engineers Wilmington District Engineer or his/her representative to inspect the authorized activity at any time deemed necessary to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this general permit.

i. This general permit does not authorize any activity that would conflict with a federal project's congressionally authorized purposes, established limitations or restrictions, or limit an agency's ability to conduct necessary operation and maintenance functions. Per Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408), no project that has the potential to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, or obstruct a federally constructed work or project, including, but not limited to, levees, dams, jettys, navigation channels, borrow areas, dredged material disposal sites, flood control projects, etc., shall be permitted unless the project has been reviewed and approved by the appropriate Corps approval authority.

j. This general permit does not grant any property rights or exclusive privileges.

k. This general permit does not authorize any injury to the property or rights of others.

l. This general permit does not authorize the interference with any existing or proposed federal project.

m. In issuing this general permit, the Federal Government does not assume any liability for the following:

- (1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- (2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- (3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this general permit.
- (4) Design or construction deficiencies associated with the permitted work.
- (5) Damage claims associated with any future modification, suspension, or revocation of this general permit.

n. Authorization provided by this general permit may be modified, suspended or revoked in whole or in part if the U.S. Army Corps of Engineers Wilmington District Engineer, acting for the Secretary of the Army, determines that such action would be in the best public interest. The term of this general permit shall be five (5) years unless subject to modification, suspension or revocation. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the United States Government.

o. No activity may occur in a component of the National Wild and Scenic Rivers 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 designation or study status. 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, etc.)

p. In cases where the Wilmington District Engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Permittees must submit the information described in Procedure “a” to the appropriate Corps Regulatory field office if any properties subject to the above criteria may be affected by the proposed project. The permittee may not begin work until

notified by the Corps Regulatory office that the requirements of the NHPA have been satisfied and that the activity is authorized.

q. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this general permit, you must immediately notify the Wilmington 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 Wilmington 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.

r. No activity is authorized under this general permit 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 Section 7 consultation addressing the effects of the proposed activity has been completed*. Information on threatened and endangered species and their critical habitat can be obtained directly from the Corps field offices, the USFWS field offices or at the following web addresses: <http://www.fws.gov/> or <http://www.fws.gov/ipac/> or <http://www.noaa.gov/fisheries.html>. Permittees must submit the information described in Procedure “a” to the appropriate Corps Regulatory field office if any properties subject to the above criteria may be affected by the proposed project. Permittees may not begin work until notified by the Corps Regulatory office that the requirements of the ESA have been satisfied and that the activity is authorized.

*Note - Section 7 consultation has been completed for the Northern long-eared bat and the permittee will only have to notify the district engineer if the project meets the criteria described in General Condition “s”.

s. The Wilmington District, U.S. Army Corps of Engineers (Corps) has consulted with the United States Fish and Wildlife Service (Service) in regards to the threatened Northern long-eared bat (NLEB) (*Myotis septentrionalis*) and Standard Local Operating Procedures for Endangered Species (SLOPES) have been approved by the Corps and the Service. This condition concerns effects to the NLEB only and does not address effects to other federally listed species and/or to federally-designated critical habitat.

A. Procedures when the Corps is the lead federal* agency for a project:

The permittee must comply with (1) and (2) below when:

- the project is located in the western 41 counties of North Carolina, to include non-federal aid North Carolina Department of Transportation (NCDOT) projects, OR;

- the project is located in the 59 eastern counties of North Carolina, and is a non-NC DOT project.

*Generally, if a project is located on private property or on non-federal land, and the project is not being funded by a federal entity, the Corps will be the lead federal agency due to the requirement to obtain Department of the Army authorization to impact waters of the U.S. If the project is located on federal land, contact the Corps to determine the lead federal agency.

(1) A permittee using a Nationwide Permit (NWP) or a Regional General Permit (RGP) must check to see if their project is located in the range of the NLEB by using the following website:

<http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>. If the project is within the range of the NLEB, or if the project includes percussive activities (e.g., blasting, pile driving, etc.), the permittee is then required to check the appropriate website in the paragraph below to discover if their project:

- is located in a 12-digit Hydrologic Unit Code area (“red HUC” - shown as red areas on the map), AND/OR;
- involves percussive activities within 0.25 mile of a red HUC.

Red HUC maps - for the western 41 counties in NC (covered by the Asheville Ecological Services Field Office), check the project location against the electronic maps found at: http://www.fws.gov/asheville/htmls/project_review/NLEB_in_WNC.html. For the eastern 59 counties in NC (covered by the Raleigh Ecological Services Field Office), check the project location against the electronic maps found at: https://www.fws.gov/raleigh/NLEB_RFO.html.

(2) A permittee must submit a pre-construction notification (PCN) to the district engineer, and receive written authorization from the district engineer, prior to commencing the activity, if the activity will involve either of the following:

- tree clearing/removal, construction/installation of wind turbines in a red HUC, AND/OR;
- bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, (applies anywhere in the range of the NLEB), AND/OR;
- percussive activities in a red HUC, or within 0.25 mile of a red HUC.

The permittee may proceed with the activity without submitting a PCN to either the Corps or the USFWS, provided the activity complies with all applicable NWP terms and general and regional conditions, or all applicable RGP terms and general

and special conditions, and if the permittee's review under A.(1) and A.(2) above shows that the project is:

- located outside of a red HUC (and there are no percussive activities), and the activity will NOT include bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, OR;
- located outside of a red HUC and there are percussive activities, but the percussive activities will not occur within 0.25-mile of a red HUC boundary, and the activity will NOT include bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, OR;
- located in a red HUC, but the activity will NOT include: tree clearing/removal; construction/installation of wind turbines; bridge removal or maintenance, unless the bridge has been inspected and there is no evidence of bat use, and/or; any percussive activities.

B. Procedures when the Corps is not the lead federal agency:

For projects where another federal agency is the lead federal agency - if that other federal agency has completed project-specific ESA Section 7(a)(2) consultation for the NLEB, and has (1) determined that the project would not cause prohibited incidental take of the NLEB, and (2) completed coordination/consultation that is required by the Service (per the directions on the respective Service office's website), that project may proceed without notification to either the Corps or the Service, provided all General and Regional Permit Conditions (for NWPs), or RGP general and special conditions (for RGPs) are met.

The NLEB SLOPES can be viewed on the Corps website at the following World Wide Web Page: <http://www.saw.usace.army.mil/Missions/Regulatory-Permit-Program/Agency-Coordination/ESA/>. Permittees who do not have internet access may contact the Corps at (910) 251- 4633.

t. If the permittee discovers or observes any live, damaged, injured or dead individual of an endangered or threatened species during construction, the permittee shall immediately notify the Wilmington District Engineer so that required coordination can be initiated with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

u. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program that prohibits any development, including fill, within a floodway that results in any increase in base flood elevations. This general permit does not authorize any activity prohibited by the National Flood Insurance Program.

v. The permittee must install and maintain, at his/her expense, any signal lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on

authorized facilities. For further information, the permittee should contact Coast Guard Sector North Carolina at (910) 772-2191 or email Coast Guard Fifth District at cgd5waterways@uscg.mil.

w. The permittee must maintain any structure or work authorized by this general permit in good condition and in conformance with the terms and conditions of this general permit. The Permittee is not relieved of this requirement if the Permittee abandons the structure or work. Transfer in fee simple of the work authorized by this general permit will automatically transfer this general permit to the property's new owner, with all of the rights and responsibilities enumerated herein. The permittee must inform any subsequent owner of all activities undertaken under the authority of this general permit and provide the subsequent owner with a copy of the terms and conditions of this general permit.

x. At his/her sole discretion, any time during the processing cycle, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific proposal. In such case, the procedures for processing an individual permit in accordance with 33 CFR 325 will be available.

y. All fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

z. Except as authorized by this general permit or any Corps approved modification to this general permit, all excavated material will be disposed of in approved upland disposal areas.

aa. Access roads are not authorized by this general permit.

bb. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon this general permit will remain authorized provided the activity is completed within twelve months of the date of the general permit's expiration, modification, or revocation. Activities completed under the authorization of this general permit that were in effect at the time the activity was completed continue to be authorized by the general permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE COMMANDER:



Scott McLendon
Chief, Regulatory Division
Wilmington District