



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

*Public Notice
Proposed GP-09-OP
Osprey Nesting Platforms*

SCDHEC – OCRM is proposing to reinstate the previously expired general permit (CC-80-172) for Osprey Nesting Platforms in the Tidelands Critical Area in the eight coastal counties of South Carolina.

The application procedure for this general permit requires the permittee to run a filing notice in a local newspaper, and to send certified letters to adjoining property owners and the local government notifying them of their intention to apply under this general permit. This general permit, if approved, will be valid for five years from the date of issuance.

A copy of the proposed general permit is attached to this public notice. Comments will be received on this proposed general permit until May 31, 2009. Comments may be sent to:

**SCDHEC - OCRM
Attn: Blair Williams, Acting Wetland Section Manager
1362 McMillan Ave, Suite 400
Charleston, SC 29405**

May 1, 2009

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management

General Permit – Osprey Platforms

Permittee:

Permit Number: GP-09-OP

Date of Issuance: TBD

Expiration Date: Five years from the date of issuance

Location:

DRAFT

This permit is issued under the provisions of Act 123 of the 1977 South Carolina General Assembly and the Final Rules and Regulations of the South Carolina Department of Health and Environmental Control – Office of Ocean and Coastal Resource Management. Please Carefully Read the project description and any special conditions which appear on this permit because they will affect the work that is allowed. If no special conditions have been placed on this permit, then the work is authorized as described in the project description and as modified by the general conditions. The general conditions are also a part of this permit and should be read in their entirety. Please carefully read the enclosed “notice of appeal procedure”

Description of Project: Construction/Installation of an Osprey nesting platform. This permit has been approved as stated, subject to the following conditions:

Special Conditions:

1. Provided that the work is constructed in accordance with Attachment “A”.

PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (5). BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS, AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE SCDHEC-OCRM MAY CONSIDER APPROPRIATE.

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Issued: TBD

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Permittee

Date

This permit is effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.

Project Manager, Wetland Section

Date

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**South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management**

**General Permit – Osprey Platforms
GP-09-OP
Attachment A**

Work: Construction of Osprey nesting platforms

Where: Located within the tidelands of OCRM critical area in the eight counties of the Coastal Zone

Description: Construction/installation of elevated Osprey Nesting Platforms.

Special Conditions:

1. Provided that the nesting platform is installed in general agreement with the attached drawing. Platform height should be a minimum of 15' above existing grade. Heights of 20' to 30' above grade are more desirable.
2. Provided that marsh disturbance is minimized during installation. No mechanized equipment may be used in the tidal wetlands. No concrete may be placed below grade. Platforms must be freestanding; no guy wires are permitted.
3. Provided that nesting platforms must be placed within the permittees extended property lines unless an alternative location is approved by OCRM staff. Platforms must be installed in intertidal areas; no creek may be obstructed by these platforms. Platforms should be placed between the permittees highground and open water area or creek.
4. Provided that damaged platforms must be repaired or removed from the tidelands critical area by the permittee.
5. Provided that OCRM reserves the right to require platform removal by the permittee should conditions warrant.
6. Provided that normal general permitting procedures must be followed to secure this permit.
7. Provided a site map showing the location of the nesting platform is supplied to OCRM during the application process.
8. The permittee must obtain a construction placard before any work may be performed under this permit.
9. OCRM reserves the right to require an individual permit if, in its determination, conditions warrant.
10. Active nests may not be disturbed. Permittees wishing to remove poles may only do so between October 15 and January 15 and only if no nest is present on the platform. Platforms containing nests may not be removed except by The Department of Natural Resources. Platforms must be completely removed, not cut off at marsh level.
11. Other designs will be considered by OCRM if the permittee has received prior written approval by The Department of Natural Resources.

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GENERAL CONDITIONS:

This construction and use permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Coastal OCRM and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within **one year** of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. That the permittee shall permit the OCRM or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the OCRM.
8. That this permit may not be transferred to a third party without prior written notice to the OCRM, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That the permit placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintain the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the Permittee is notified that OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. That the OCRM shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Coastal OCRM's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the OCRM. (South Carolina Code Section 1-023-370 shall govern the procedure for revocation, suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the OCRM or the State of South Carolina or any employee, agent, or representative of the Coastal OCRM or the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of other. This permit authorizes no invasion of adjacent of private property, and OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

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