



REPLY TO  
ATTENTION OF:

## DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P. O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

Operations Division  
Regulatory Branch

SEP 9 2013

SUBJECT: MVN-2000-2083-EQ  
(General Permit) NOD-28

### SPECIAL PUBLIC NOTICE

TIME EXTENSION AND MODIFICATION  
OF (GENERAL PERMIT) NOD-28

FOR MAINTENANCE DREDGING  
IN INDIVIDUAL OIL AND/OR GAS WELL CANALS AND SLIPS  
WELL STRUCTURES, FOUNDATION PADS AND PRODUCTION FACILITIES IN OPEN  
WATERS OR MANMADE CANALS, AND CONSTRUCTION AND MAINTENANCE  
OF WATERWAY CLOSURES OR FIXED CREST WEIRS IN OR AFFECTING  
NAVIGABLE WATERS OF THE UNITED STATES IN THAT PART OF THE  
NEW ORLEANS DISTRICT OUTSIDE OF THE  
LOUISIANA COASTAL ZONE

Interested parties are hereby notified that (General Permit) NOD-28, originally issued by this office on 7 June 1985, has been modified to include the installation of foundation pads and extended for 5 years until 10 June 2018. This proposal was advertised for public comment on 21 January 2013.

All available information was considered in determining that the overall public interest would best be served by extending and modifying this general permit. Although the general permit is being modified and extended, persons who become aware of problems or adverse impacts are requested to notify the Regulatory Branch of this District at the above address. This general permit will be suspended, revoked, or modified if it is shown to be in the public interest to take such action.



Martin S. Mayer  
Chief, Regulatory Branch

Enclosures

MVN-2000-2083-EQ  
(General Permit)NOD-28

DEPARTMENT OF THE ARMY

GENERAL PERMIT

FOR MAINTENANCE DREDGING IN INDIVIDUAL OIL AND/OR GAS WELL CANALS AND SLIPS, WELL STRUCTURES, FOUNDATION PADS AND PRODUCTION FACILITIES IN OPEN WATERS OR MANMADE CANALS, AND CONSTRUCTION AND MAINTENANCE OF WATERWAY CLOSURES OR FIXED CREST WEIRS IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES IN THAT PART OF THE NEW ORLEANS DISTRICT OUTSIDE OF THE LOUISIANA COASTAL ZONE

AUTHORIZATION NO: (General Permit) NOD-28

Initial Effective Date: 7 June 1985

Expiration Date: 10 June 2018

Under authorization granted by Section 325.8 (b) Title 33, Code of Federal Regulations, the District Engineer at New Orleans has issued this general permit authorizing work in that part of the New Orleans District, outside of the Louisiana Coastal Zone. Specific legislation requiring Department of the Army permits for these activities are:

- a. Section 10 of the Rivers and Harbors Act of 3 March 1988 (33 USC 403).
- b. Section 404 of the Clean Water Act (33 USC 1344).

Structures and activities authorized by this general permit include the following:

- a. Maintenance dredging in individual oil or gas well canals and slips if spoil is placed on available banks or used to create substrate conducive to development of wetlands such as marsh, swamp, bottomland hardwoods or similar areas.
- b. Well structures, foundation pads and production facilities in open waters or manmade oil and gas well canals.
- c. Waterway closures, with shell, riprap or other suitable hardened caps, or fixed crest weirs in manmade canals for mitigation purposes and/or at the recommendation of federal or state agencies.

Work may not be performed under authority of this general permit within the following areas:

- a. Within any natural stream.
- b. Within any drainage or irrigation ditch.
- c. Within any publicly owned waterway.
- d. Within 500 feet of any stream included in a national or state system of scenic or natural waterways.
- e. Within 1.0 mile of a site eligible to be listed on the National Register of Historic Places or within 0.5 mile of a known archeological site or within 0.5 of any known cultural resource site, unless a no effect determination is made by this Corps District and concurred upon by the Louisiana State Historic Preservation Officer and the Advisory Council on Historic Preservation.
- f. Within 1,500 feet of a levee or other flood control facilities constructed or maintained with federal funds or owned and operated by agencies of state or local governments, without the written consent of the appropriate agency or governing body.
- g. Within the boundaries of a national or state wildlife refuge, game management area, national and state parks, or similar area without prior specific authorization from the managing agency.
- h. Within an area where mitigation has been implemented as requirement of a permit action.
- i. No activity that is likely to adversely affect federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species, is authorized under this general permit.
- j. No work may be performed within 3,000 feet of an active bald eagle nesting site.
- k. Within 1,500 feet of a colonial bird nesting site.

The approximate boundaries of the US Army Corps of Engineers, New Orleans District (MVN District Boundary) and the Louisiana Coastal Management Zone are shown on the enclosed map.

In addition to the appropriate conditions of the Department of the Army permit form (ENG Form 1721), as shown on the attached copy of the form, the work authorized by this general permit is subject to the following special conditions:

- a. No work may be performed until the applicant submits satisfactory plans for the proposed activity and has received approval by the District Engineer. All applications for approval under this general authorization must include a completed application form ENG 4345, a vicinity map, plan view and cross section of the proposed work.

b. This permit may be suspended in whole or in part, modified, and/or revoked if the District Engineer determines such action to be in the public interest. If the permit is revoked, suspended, and/or modified the action will be announced by public notice.

c. All required state and local authorizations, licenses, or permits must be obtained before work authorized by the general permit may legally be performed.

d. Additional conditions deemed necessary to protect the public interest may be used by the District Engineer at any time. Any additional conditions added to the general permit will be announced by public notice.

e. This permit will be effective until 10 June 2018. It may be further extended past that date.

f. If cultural artifacts are uncovered by work authorized by this general permit, the work must be suspended and notification given to this District and to the State Archeologist or Historic Preservation Officer. Work may not be resumed until provisions for study, recovery, and/or preservation of the artifacts have been made.

g. In cases when the District Engineer deems it necessary in the public interest, authorization to perform work under the general permit may be denied and the applicant required to obtain a regular permit in order to legally perform the desired work.

h. If, in the judgment of the District Engineer, the permittee does not at all times exercise due caution in the handling of oil, gas or other pollutive, noxious, lethal substances, to prevent conditions deleterious to health or seafood, or hazardous to navigation, or dangerous to persons or property engaged in commerce or otherwise on said waters, or fails on demand to remove promptly any structure(s) or parts thereof, no longer used for the purpose for which there are constructed, the approval may be revoked and all operations authorized by it may be terminated.

i. The proposed disposal area for dredged material will be reviewed to determine if alternate practicable disposal areas are available near the project site that would reduce adverse environmental impact, or if bucket, hydraulic, wheelwash, or spray dredging should be utilized. Final approval for the work under the general permit may require use of an alternate disposal site and/or dredging and disposal method.

j. The discharge will not affect a threatened or endangered species as identified under the Endangered Species Act, or endanger the essential and/or critical habitat of such species.

k. The permittee agrees to make every reasonable effort to construct or operate the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, special aquatic sites (including wetlands), and natural environmental values.

l. The authorization to perform work under the general permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations nor does it obviate the requirement to obtain state or local assent required by law for the activity authorized herein.

m. If and when an authorized activity is to be abandoned, unless such abandonment is part of a transfer procedure by which the authorization is being transferred to a third party, the individual(s) who receive(s) the authorization must restore the area to a condition satisfactory to the District Engineer. Any transfer procedure must include the transferee's written agreement to comply with all terms and conditions of this permit and any additional conditions that may be added to the individual authorization.

n. There shall be no unreasonable interference with navigation by the existence or use of the activity, authorized herein. The permittee will, at his or her expense, install and maintain any safety lights, signs and signals prescribed by the United States Coast Guard, through regulations or otherwise, on authorized structures or facilities or on equipment used in performing the work under the authorization.

o. Wetlands that are not part of the authorized project site, but that are disturbed during construction, including the temporary crossing of these wetland areas, will be restored to their pre-project elevations and conditions coincidental to completion of the project.

p. When work is done by heavy equipment in wetland areas that are not a part of this authorization or heavy materials are temporarily stored in these wetland areas, mats will be utilized and activities confined to matted areas. When work is complete, the mats will be removed and the site restored to pre-project conditions, as needed.

q. When project works will be constructed, adjacent to or otherwise in proximity to other works conducted pursuant to this general permit, drawings will be requested to show the relationship of such structures and/or work to the proposed work.

r. Individual approvals granted under this general permit allow 5 years from the date of the approval letter to complete the project.

s. The permittee agrees that work authorized by this general permit shall be constructed in a manner so as to minimize any degradation of water quality.

t. The permittee shall permit and facilitate access to the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

u. Any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

v. For projects requiring authorization under Section 404 of the Clean Water Act, in reference to 33 CFR 325.1 (d)(7) the applicant is required to submit a statement explaining how impacts to the waters of the United States are to be avoided, minimized, and compensated. The application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts. Proposed compensatory mitigation should be located within the same watershed of the permitted impact, to the extent practicable, and follow the preferential hierarchy established in 33 CFR 332.3(b): 1) Mitigation bank credits; 2) Existing in-lieu fee programs; 3) permittee-responsible mitigation.

w. 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.

x. For general permit applications that are located within the boundaries of the Atchafalaya Basin Floodway, see enclosed map, a copy of the application and associated drawings will be sent to the US Fish and Wildlife Service (FWS) for a 10-day review and comment period. Concurrences may be forwarded to the Corps via telephone; however, non-concurrences must be made in writing with an information copy sent to the applicant and must include a description of the impact(s) considered to be more than minimal. The agency may comment on the project or request additional information needed for their analysis during the comment period. If additional time needed for this evaluation, the FWS may request a time extension of up to 20 days. Lack of response within 10 days by this Federal agency will be considered as no objection or no position by the agency. Corps of Engineers' decision of non-concurrence with the reviewing agency's objections and/or recommendations will be made in writing by the District Engineer to the agency.

y. Foundation Pads

1. Material used to construct foundation pads may be clam shells, oyster shells or limestone. Limestone used in the construction of foundation pads may not exceed 6-inches in diameter.

2. Dredging incidental to installation of a foundation pad may be performed providing the volume does not exceed 1,500 cubic yards and the dredged material is either removed from the site or spread so as to raise water bottoms 6-inches or less. Dredging is limited to areas within 200-feet of the proposed well location.

3. Foundation pads nor their associated structures shall extend channelward more than 10 percent of the waterway bank-to-bank distance, nor cause unreasonable interference to navigation.

4. Shells or stones placed under this general authority may not be removed from the canal or other water body in which they were placed.

5. Foundation pads must be spread to a thickness of not more than 1-foot within 60 days of removal of production facilities.

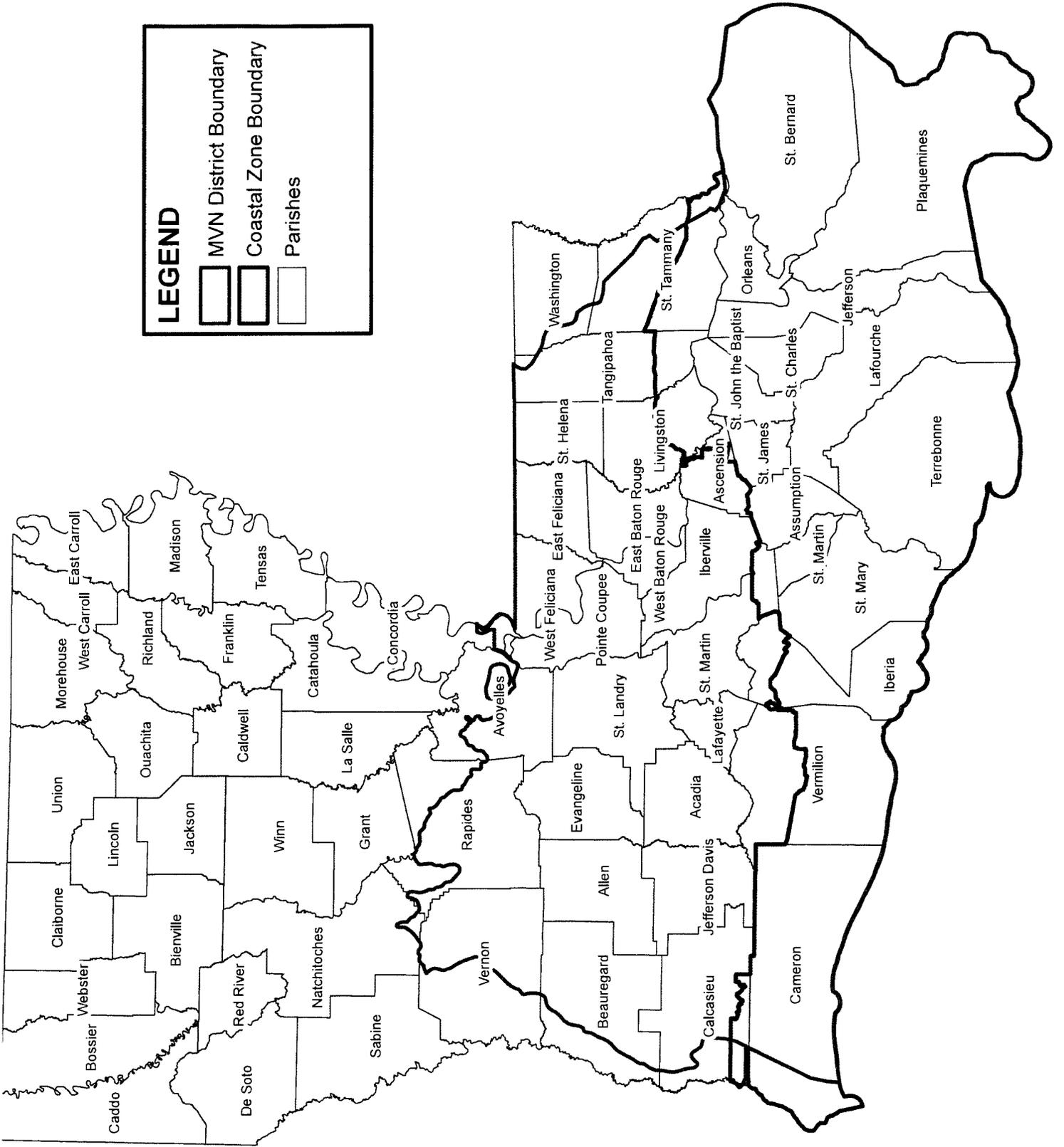
6. Foundation pads installed under authority of this general permit must be in compliance with state regulations relative to underwater obstructions.

7. Foundation pads placed in areas of oyster production or oyster seed grounds must be reviewed with the Louisiana Department of Wildlife and Fisheries prior to a request for authorization under this general permit being submitted.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Martin S. Mayer  
Chief, Regulatory Branch  
for  
Richard L. Hansen  
Colonel, U. S. Army  
District Commander



**LEGEND**

-  MVN District Boundary
-  Coastal Zone Boundary
-  Parishes

**DEPARTMENT OF THE ARMY PERMIT**

Permittee \_\_\_\_\_

Permittee No. \_\_\_\_\_

Issuing Office \_\_\_\_\_

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Project Location:

Permit Conditions:



General Conditions:

1. The time limit for completing the work authorized ends on \_\_\_\_\_. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)
2. Limits of the authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or behalf of the United States in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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 becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_ (DISTRICT ENGINEER) \_\_\_\_\_ (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_ (TRANSFEREE) \_\_\_\_\_ (DATE)