DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO
ATTENTION OF:

DEC 1 5 2005

Operations Division
Western Evaluation Section

SUBJECT: (General Permit)NOD-8
MVN 2005-673 WB

PUBLIC NOTICE

TIME EXTENSION AND MODIFICATION FOR A
GENERAL PERMIT AUTHORIZING THE INSTALLATION AND MAINTENANCE
OF FLOWLINES IN MANMADE OILFIELD CANALS IN THAT PART OF THE NEW
ORLEANS DISTRICT OUTSIDE THE LOUISIANA COASTAL ZONE

Interested parties are hereby notified that (General Permit)NOD-8, originally issued by this office on August 25, 1978, for flowlines in manmade oilfield canals within Louisiana's Coastal Zone is being extended until April 30, 2010.

The proposed time extension was advertised for public comment on March 4, 2005.

Although the general permit is being extended, persons who become aware of problems or adverse impacts are required to notify the Regulatory Branch of this District at the above address. The general permit will be suspended, revoked, or modified it is shown to be in the public interest to do so.

A copy of the general permit is attached. Additional copies are available upon written request to the Regulatory Branch of this District at the above address.

[redacted]

Ronald J. Ventola
Chief, Regulatory Branch

Attachments

DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 60267
NEW ORLEANS, LOUISIANA 70160-0267

Operations Division
Western Evaluation Section

DEPARTMENT OF THE ARMY GENERAL PERMIT

AUTHORIZATION NO.: (General Permit) NOD-8

EFFECTIVE DATE: August 25, 1978

PROPOSED EXPIRATION DATE: April 30, 2010

Under authorization granted by applicable sections of Parts 320 through 330 Title 33, code of Federal Regulations, and delegated authority from the Commander, U.S. Army Corps of Engineers, the District Engineer at New Orleans has determined that it is not contrary to the public interest to issue a general permit time extension for the installation and maintenance of flowlines in man-made oilfield canals in the New Orleans District and outside of the boundaries of the Louisiana Coastal Management Zone (CMZ), subject to the conditions contained in this general permit. The attached map shows the approximate boundaries of the New Orleans District and the Coastal Management Zone.

Flowlines are small pipelines, usually with diameters ranging from 2 inches to 4 inches (inside diameter), used to convey petroleum, natural gas, fuel, air, water, brine and similar fluids within an oil and/or gas field. A typical flowline installation is shown on the attached drawing.

Specific legislation requiring Department of the Army permits for work of this nature:

a. Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403).

b. Section 404 of the Clean Water Act (33 USC 1344).

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 without a scenic waterway permit or other approval from the Louisiana Department of Wildlife and Fisheries.

e. Within 1.0 mile of a site eligible to be listed on the National Register of Historic places or within 0.5 of a mile of a known archeological site or within 0.5 of a mile of any known cultural resource site.

f. Within 1,000 feet of a levee or floodwall which was constructed or maintained with federal funds, or owned and operated by agencies of state and local government without 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 specific authorization by the manager of the facility.

h. Within 1,500 feet of a colonial bird nesting site.

i. Within any area where the activity 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.

j. Within 3,000 feet of a bald eagle nesting site.

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.

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 this general permit may be legally performed.

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

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

f. In cases when the District Engineer deems it necessary in the public interest, authorization to perform work under this general permit any be denied and the applicant required to obtain an individual Department of the Army permit in order to legally perform the desired work.

g. Flowlines installed in wetlands adjacent to the crossings authorized by this permit must either be installed in small trenches which are backfilled with the material excavated from them or laid on the surface of the ground.

h. Material excavated for flowline crossings may be stockpiled on areas previously used for deposits of dredged or fill material. Material not used or backfill may not be left in any waterways or wetland areas.

i. Material excavated for a flowline crossing may not be deposited in such a manner as to impeded normal water flows in the area.

j. Any breaks or gaps made in existing spoil banks in wetlands must be backfilled to pre-project conditions.

k. Flowlines eligible for this general permit must not exceed 1 mile in length.

l. Clean rock, shells, broken concrete, and concrete mats may be placed over backfills or canal banks authorized by this general permit to prevent or reduce erosion.

m. Material installed for erosion protection must be placed in such a manner that it does not extend more than 18 inches above adjoining undisturbed canal banks.

n. If, in the judgment of the District Engineer, the applicant does not at all times exercise due caution in the handling of oil, gas, or other pollutive, noxious, or 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 or structure or parts thereof, no longer used for the purpose for which they are constructed, the approval may be revoked and all operations authorized by it may be terminated.

o. Permittee must install and maintain, at his expense, any safety lights, signs and signal prescribed by the U.S. Coast Guard, through regulations or otherwise, on its authorized flowline(s).

p. Use of the permitted activity must not interfere with the public right to free navigation on all navigable waters of the United States.

q. Flowlines shall be routed to follow existing impact corridors, such as other flowlines or spoil banks, rather than crossing undisturbed marsh, to the greatest extent practicable.

r. The permittee agrees that he will prosecute the construction or work authorized here in a manner which will minimize any degradation of water quality.

s. The permittee shall allow 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.

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

u. The permittee may be required to remove abandoned flowlines by the District Engineer if it is found to be in the public interest to do so.

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

w. To meet state water quality standards, projects authorized under this general permit shall ensure that: any fill material must be free of contaminants; upon replacement or removal from service the pipelines shall be removed or a state-approved abandonment plan must be obtained; and there are no unpermitted discharges of oil field wastes.

x. Projects must include a compensatory mitigation plan to offset unavoidable wetland losses. This plan will adhere as closely as possible to the requirements of the Memorandum of Agreement between the Department of the Army and the Environmental Protection Agency (i.e., compensatory mitigation will generally be in-kind, performed within the same geographical area as the project site, etc.). The compensatory mitigation plan must provide a minimum of 1 to 1 acreage replacement with each plan evaluated on the basis of conditions existing at the proposed project site. Compensatory mitigation may consist of wetland restoration, enhancement of degraded wetlands, wetland creation, or

participation in an approved mitigation bank. The plan should be designed to replace the functions of the affected project site. It may be performed on federal wildlife refuges, state wildlife management areas, and parish or private lands. The plan must include a letter from the refuge or land manager agreeing to the proposed plan. Compensatory mitigation shall be commenced within 90 days of abandonment or installation of flowlines and shall be completed no later than 2 years from the date of commencement of work authorized under this general permit.

y. 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 free navigation on 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.

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

Ronald J. Ventola
Chief, Regulatory Branch
for
Richard P. Wagenaar
Colonel, U.S. Army
District Engineer

DEPARTMENT OF THE ARMY PERMIT

Permittee:

Permit No.:

Issuing Office: New Orleans District

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 1 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.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
(X) 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).

~~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.

(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)

2. Limits of this 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 on 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.

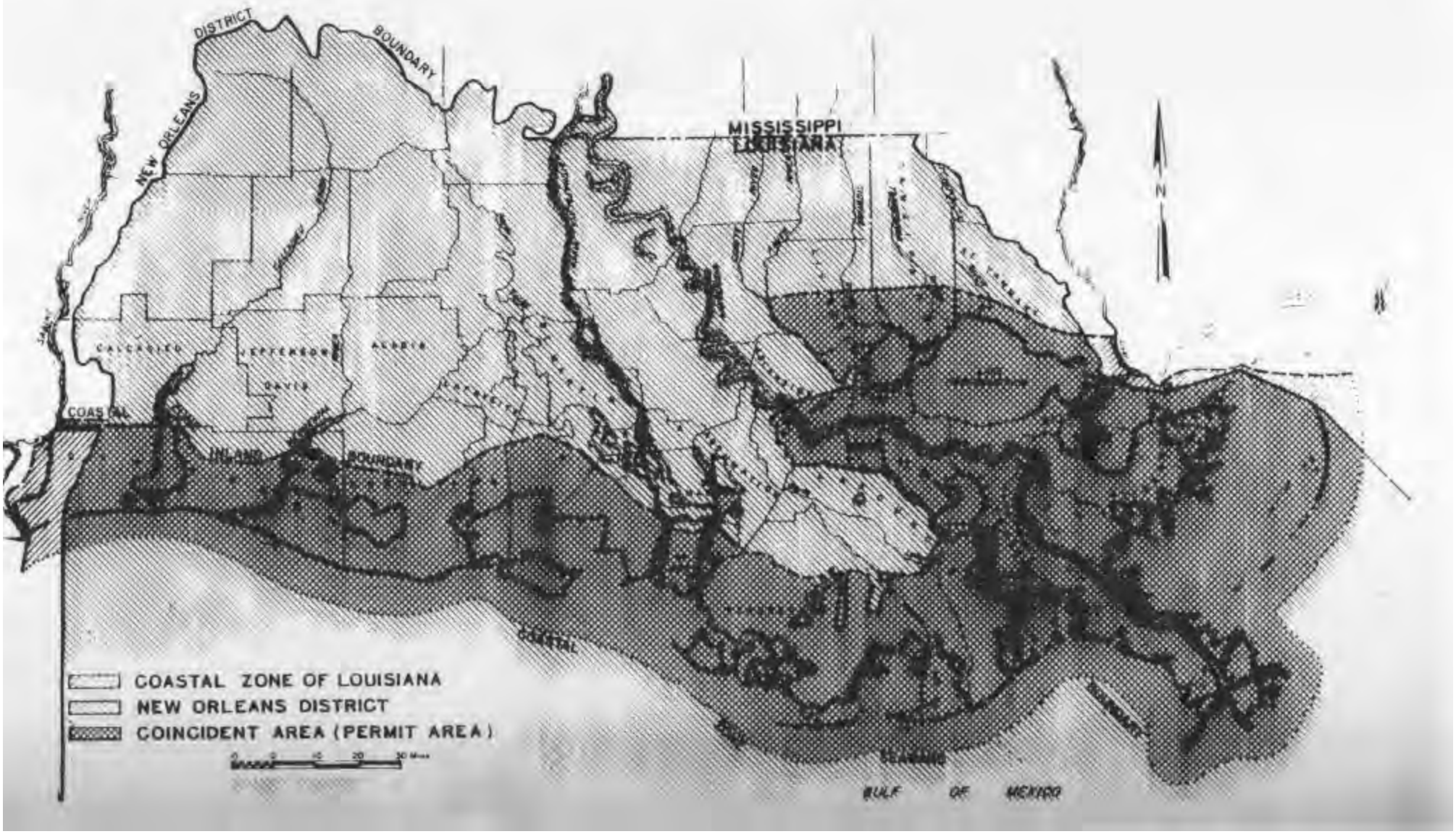
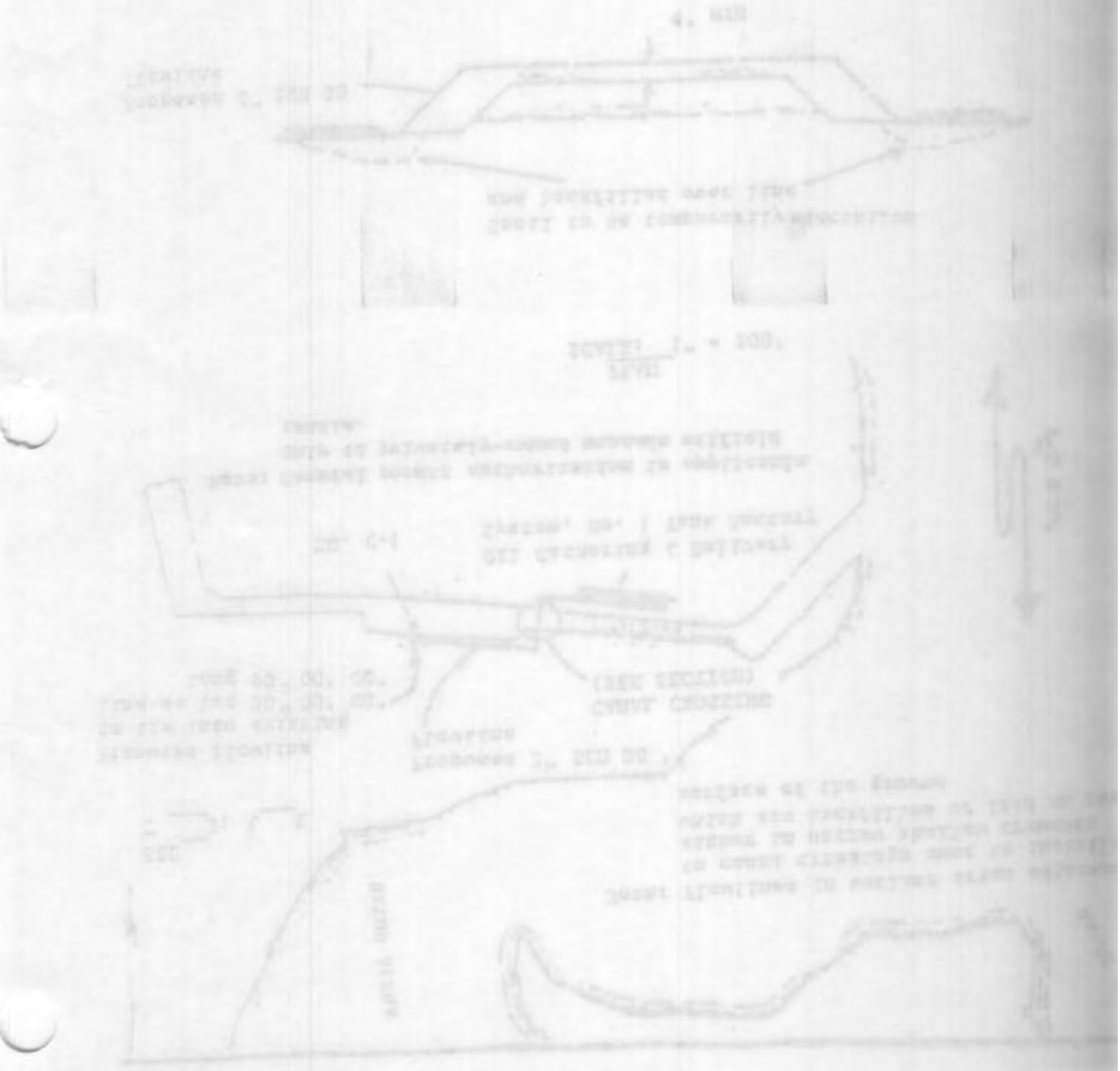
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

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 it 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.


NEW ORLEANS DISTRICT BOUNDARY
MISSISSIPPI
LOUISIANA
CALCASIEU
JEFFERSON
ACADIA
DAVIS
COASTAL
INLAND BOUNDARY
COASTAL
COASTAL ZONE OF LOUISIANA
NEW ORLEANS DISTRICT
COINCIDENT AREA (PERMIT AREA)
GULF OF MEXICO