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

MAY 6 2006

REPLY TO
ATTENTION OF:
Operations Division
Regulatory Branch

SUBJECT: (General Permit)NOD-131
MVN 2000-2094 WB

PUBLIC NOTICE

TIME EXTENSION
OF
GENERAL PERMIT FOR DREDGING OF NEW OIL AND GAS
CANALS AND SLIPS OUTSIDE OF THE LOUISIANA COASTAL ZONE WITHIN
THE BOUNDARIES OF THE NEW ORLEANS DISTRICT

On November 11, 2005, this District issued a special public notice announcing consideration of a time extension to this general permit. During our review of the general permit, information was developed by our staff and others, partially in response to our public notice, which established that extending the general permit is in the public interest.

Accordingly, the expiration date of (General Permit)NOD-131 is extended to November 30, 2010.

We reserve the right to modify, suspend or revoke this general permit any time it is found to be in the public interest to do so. Interested parties are invited to submit written comments or suggestions for modification or improvement of the general permit to the Regulatory Branch of this District at anytime.

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

REPLY TO
ATTENTION OF:

MAY 6 2006

Operations Division
Regulatory Branch

SUBJECT: (General Permit)NOD-131
MVN 2000-2094 WB

GENERAL PERMIT
FOR
THE DREDGING OF NEW OIL AND GAS CANALS AND SLIPS
OUTSIDE OF THE LOUISIANA COASTAL ZONE WITHIN THE BOUNDARIES OF
THE NEW ORLEANS DISTRICT

AUTHORIZATION NO.: (General Permit)NOD-131
EFFECTIVE DATE: November 1, 1994
EXPIRATION DATE: November 30, 2010

Under authorization granted by applicable sections of Parts 320 through 330 of 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 in the public interest to issue a general permit to authorize the dredging of new oil and gas canals and slips outside of the Louisiana Coastal Zone within the boundaries of the New Orleans District.

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

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

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

This general permit does not authorize dams in navigable waters of the United States pursuant to Section 9 of the Rivers and Harbors Act of 3 March 1899 (33 USC 401) or transportation of dredged material for ocean disposal pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act (33 USC 1413).

This permit will authorize the dredging of new oil and gas canals and slips to a maximum of 500 feet in length in wetlands, outside the Louisiana Coastal Zone, within the boundaries of the New Orleans District. The dredging of new channels and slips, to a maximum of 1,500 feet in length, will be authorized in open water.

General Conditions

a. All activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in modification, suspension or revocation of the authorization granted to the permittee, in whole or in part, as set forth more specifically in General Conditions j or k below, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended, or revoked in whole or part.

b. All activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Clean Water Act (PL 92-500: 86 Stat. 816), or pursuant to applicable state and local laws.

c. When the activity authorized herein involves a discharge of any pollutant (including dredged or fill material), into waters of the United States during its construction or operation, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within six months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency (EPA), may determine to be reasonable under the circumstances. Under Section 402 of the Clean Water Act, the Environmental Protection Agency and/or the State of Louisiana may require that drilling fluids, produced waters, or cuttings associated with drilling fluids, which contain oil-based fluids, heavy metal additives such as weighting agents and dispersants, asbestos viscosifiers, zinc chromate-corrosion inhibitors, sodium chromates/dichromates, pH control chemicals, chlorinated phenol biocides, or any other substance classified as a priority pollutant by EPA, will be reinjected or contained in a closed system for transportation to an upland disposal facility. Applicants are strongly urged to consider the practicability of containerization.

d. The discharge shall not affect a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. The permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, special aquatic sites, and natural environmental values.

f. The permittee agrees that the construction of work authorized herein will be prosecuted in a manner so as to minimize any degradation of water quality.

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

h. The permittee shall maintain the structure or work authorized herein in a good and safe condition.

i. The 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.

j. This permit and/or any individual authorizations granted under this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest.

k. Any individual authorization granted under this permit may be either modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or such action would otherwise be in the public interest.

l. In issuing authorizations under this permit, the Federal Government will rely upon information and data supplied by the applicant. If, subsequent to the issuance of an authorization, such information and data prove to be false, incomplete, or inaccurate, the permit authorization may be modified, suspended, or revoked, in whole or in part.

m. Any modification, suspension, or revocation of this permit or any individual authorization granted under this permit will not be the basis for any claim for damages against the United States.

n. This permit does not authorize or approve the construction of particular structures, the authorization or approval of which require authorization by the Congress or other agencies of the Federal Government.

o. 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.

p. If the recording of this permit or authorization is possible under applicable state or local law, the permittee shall take such action as may be necessary to record this permit and any individual authorization under this permit with the Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to and interest in real property.

q. 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 safety lights, signals, and signs prescribed by the United States Coast Guard, through regulations or otherwise, on authorized facilities or on equipment used in performing work under this authorization.

r. This general permit cannot be used for piecemeal dredge or fill activities or other piecemeal work, nor is this general permit valid for any activity that is part of an overall project for which the Corps has determined that an individual permit is required.

s. If the permittee, during prosecution of authorized work within the area subject to Department of Army jurisdiction, encounters a previously unidentified archeological or other cultural resource that might be eligible for listing in the National Register of Historic Places, he/she shall immediately cease operations and notify the District Engineer. Work shall not begin again without written notification from the District Engineer.

t. Wetlands that are not part of the authorized project site but that are disturbed during construction, including the temporary crossing of wetland areas, will be restored to their preproject elevations and conditions, and may include replanting.

u. 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 shall be removed.

v. Material discharged into wetlands will be contained or stabilized and will be compatible with existing soils and will not otherwise constitute a non-point pollution source.

w. When project works will be constructed with, be adjacent to, or otherwise in proximity to other works conducted pursuant to this general permit, drawings will be required to show the relationship of such structures to the proposed work and their appropriate permit numbers.

x. Misrepresentation of the proposed project or falsification of facts may be cause to exclude the project from further general proceedings. If the misrepresentation or falsification was intentional, the applicant shall forfeit the right to conduct work at the proposed project site pursuant to this general permit.

y. If the project includes deposits of dredged or fill material, only clean dredged material, or hauled material which is free of organic matter, waste metal products, chemical pollutants, unsightly debris, etc., will be used as fill.

Special Conditions

a. No work may be performed under this general permit unless and until all required local, state and other Federal permits, licenses, authorizations, and certifications are obtained; this includes, but is not limited to:

(1) A water quality certification from the Louisiana Department of Environmental Quality, Office of Environmental Services.

b. Irrespective of whether a proposal meets the other conditions of this permit, the Corps of Engineers retains discretionary authority to subject the proposal to all individual permit review procedures, whenever the Corps of Engineers determines that the potential consequences of the proposal warrant this requirement.

c. The permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

d. The permittee must install and maintain, at the permittee's expense, any safety lights, signs, and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on the permittee's authorized facilities.

e. 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.

f. If the proposed project, or future maintenance work, involves the use of floating construction equipment (e.g., barge mounted cranes and/or pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.,) in the waterways, you are advised to notify the Eighth Coast Guard District so that a Notice to Mariners, if required, may be prepared. Notification, with a copy of your permit approval and drawings, should be mailed to the Commander, Eighth Coast Guard District, ATTN: Vessel Traffic Management Branch, 501 Magazine Street, New Orleans, Louisiana 70130-3396, about 1 month before you plan to start work. Telephone inquiries may be directed to (504) 589-4686.

c. Exclusions: The following work will not be eligible under this general permit. Applications for this work will be processed in accordance with 33 CFR Part 325:

(1) Work within the boundaries of the Louisiana Coastal Zone.

(2) Work or structures within 1,000 feet of any mainline flood control or hurricane protection levee constructed and/or maintained with Federal funds without prior coordination with, and the approval of, the New Orleans District.

(3) Structures or work in or that would impinge upon the value (habitat, hydrology, etc.) of any National Wildlife Refuge, National Forest, areas administered by the National Park Service of the US Department of the Interior, areas administered by the Louisiana Departments of Natural Resources or Wildlife and Fisheries, or other similar publicly held areas administered by Federal, state, or local governmental authority unless special permission from these agencies is submitted with the application for this general permit.

(4) Projects of national concern. This exclusion is invoked on a case-by-case basis and represents, in essence, a special class of projects that receive particular attention in Corps decisions on whether to exercise the discretionary authority (special condition b) to require individual applications for work that otherwise meets all of this permit's conditions. While a precise definition is not possible, this category of work normally includes, but is not limited to, the following examples: projects that could cause an unreasonable interference with navigation; significant wetland fills; major power plants, shipping facilities and oil refineries; major commercial, residential or industrial developments; and work that could adversely affect habitats important to migratory birds, endangered or threatened species, estuarine-dependent fishes and shellfishes, or other species of high Federal interest; or historic, cultural or archaeological sites listed in the National Register of Historic Places or sites listed in the National Registry of Natural Landmarks.

(5) Work within 1,500 feet of colonial bird nesting sites or within 1 mile of a bald eagle or brown pelican nesting sites.

(6) Work that would modify the effectiveness of an existing, functional water control structure.

d. Inclusions: The following are examples of work that will likely be eligible under this permit:

(1) Oil and gas well slips no greater than 375 feet by 120 feet in wetlands, with a maximum depth of 8 feet, located parallel and contiguous to an existing canal or bayou. A Geological Review meeting will be required if another slip or an

open water site exists within the Directional Drilling radius (see Reporting/Acknowledgement Procedures) that is technically and/or economically feasible.

(2) Oil and gas well canals and channels not greater than 70 feet wide and/or slips not larger than 345 feet by 160 feet with a total length (canal, channel and slip) not greater than 500 feet in wetlands, or 1,500 feet in open water, with a maximum depth of 8 feet, and specifying that restoration will be conducted upon abandonment. Dredged material may be placed in open water or in wetlands. Restoration will normally include plugging the mouth of the canal with an earthen closure, capped with riprap (shell) or other suitable erosion retarding material. This plug shall be maintained in good working condition for a minimum of two years following its installation. Additional restoration activities include the placing of 50 foot wide gaps in the spoil banks on either side, and reopening of any water courses blocked by the spoil placement. All spoil above the 2 foot elevation may be returned to the slip and canal or used to create or maintain adjacent wetlands. All proposals will be reviewed to determine if practical less environmentally damaging alternatives are available prior to issuing an approval. A Geological Review meeting will be required if total length (canal, channel and slip) exceeds 375 feet or if another canal or an open water site exists within the Directional Drilling radius (see Reporting/Acknowledgement Procedures) that is technically and/or economically feasible.

General Permit (NOD-131) Reporting/Acknowledgement Procedures

Applying for permit approval under General Permit (NOD-131) is identical to applying for a standard individual permit for work within the New Orleans District. The applicant request should be sent to the New Orleans District, U.S. Army Corps of Engineers, Post Office Box 60267, New Orleans, Louisiana, 70160-0267, Regulatory Branch. A complete application includes all of the following:

(1) A Department of the Army application form "ENG Form 4345" that includes the signature, the latitude and longitude, a clear description of the proposed work and intended use, along with a discussion of alternatives considered and details supporting the chosen alternative. If a Geological Review meeting is required, a written alternative analysis is not necessary.

(2) Signed statements from the affected landowners establishing that they have no objection to the required restoration/mitigation and that they agree not to develop restoration/mitigation areas without prior approval of the District Engineer.

(3) A vicinity map on which the project site is clearly indicated and accurately scaled drawings (plan view and cross-sectional views), with all dimensions clearly labeled, the number of cubic yards of any dredged or fill material involved, the total well depth in feet, and the surface casing distance in feet. The mean high and low water shorelines must also be included on the cross sections.

(4) For most projects requiring authorization under Section 404 of the Clean Water Act, a compensatory mitigation plan to offset unavoidable wetland losses will generally be required. 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 will generally 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 and values 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 (or the first planting season of December through March, if applicable) of commencement of work under the general permit, and

shall be completed no later than 2 years from the date of commencement of work authorized under this general permit.

Upon receipt of a copy of the application form and drawings, we will review the application and drawing form completeness and eligibly for processing under NOD-131. Incomplete applications will be returned to the applicant and/or the applicant will be advised of the application deficiencies. Work not eligible for processing under NOD-131 will be evaluated as a standard individual permit to include a public notice, if applicable.

For those projects requiring a Geological Review Meeting, the "Directional Drilling Radius" is the maximum distance from a proposed bottomhole location from which a given well feasibly can be directionally drilled. It is determined by the following formula: [(proposed total well depth in feet - surface casing distance in feet - 1425)x.57735027] + 375 feet. Oil and gas slips and canals will be eligible for approval under this general permit if another site within the Directional Drilling Radius is found to be technically and/or economically feasible and has less adverse environmental impact.

Applicants whose proposals meet the requirements of NOD-131 will be notified by letter that their project is being considered for approval under the general permit. Copies of the letter will be sent to the US Fish and Wildlife Service, the National Marine Fisheries Service, and the Louisiana Department of Wildlife and Fisheries for review and comment. 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. These agencies may comment on the project or request additional information needed for their analysis during the comment period. If additional time is needed for this evaluation, they may request a time extension of up to 20 days. Lack of response within 5 days by these Federal agencies will be considered as no objection or no position by those agencies. Corps of Engineers' decision of non-concurrence with reviewing Federal agencies' objections and/or recommendations will be made in writing by the District Engineer to the respective agency.

After receipt of comments from the Federal agencies or after 5 days from the start of the comment period, the proposal will be evaluated in consideration of the comments from the Federal agencies and a decision will be made to issue the general permit approval as requested, issue the general permit approval with modifications, or require the project to be evaluated as a standard individual permit to include a public notice. The applicant will be notified of our decision by letter.

Approval or work under (General Permit)NOD-131 only indicates authorization from the New Orleans District, Corps of Engineers. It does not relieve the applicant from obtaining a water quality certification from the Louisiana Department of

Environmental Quality, or any other permits, licenses, or certifications required by law.

Additional conditions deemed necessary to protect the public interest may be added to the general permit by the District Engineer at any time. If additional conditions are added, the public will be advised by public notice.

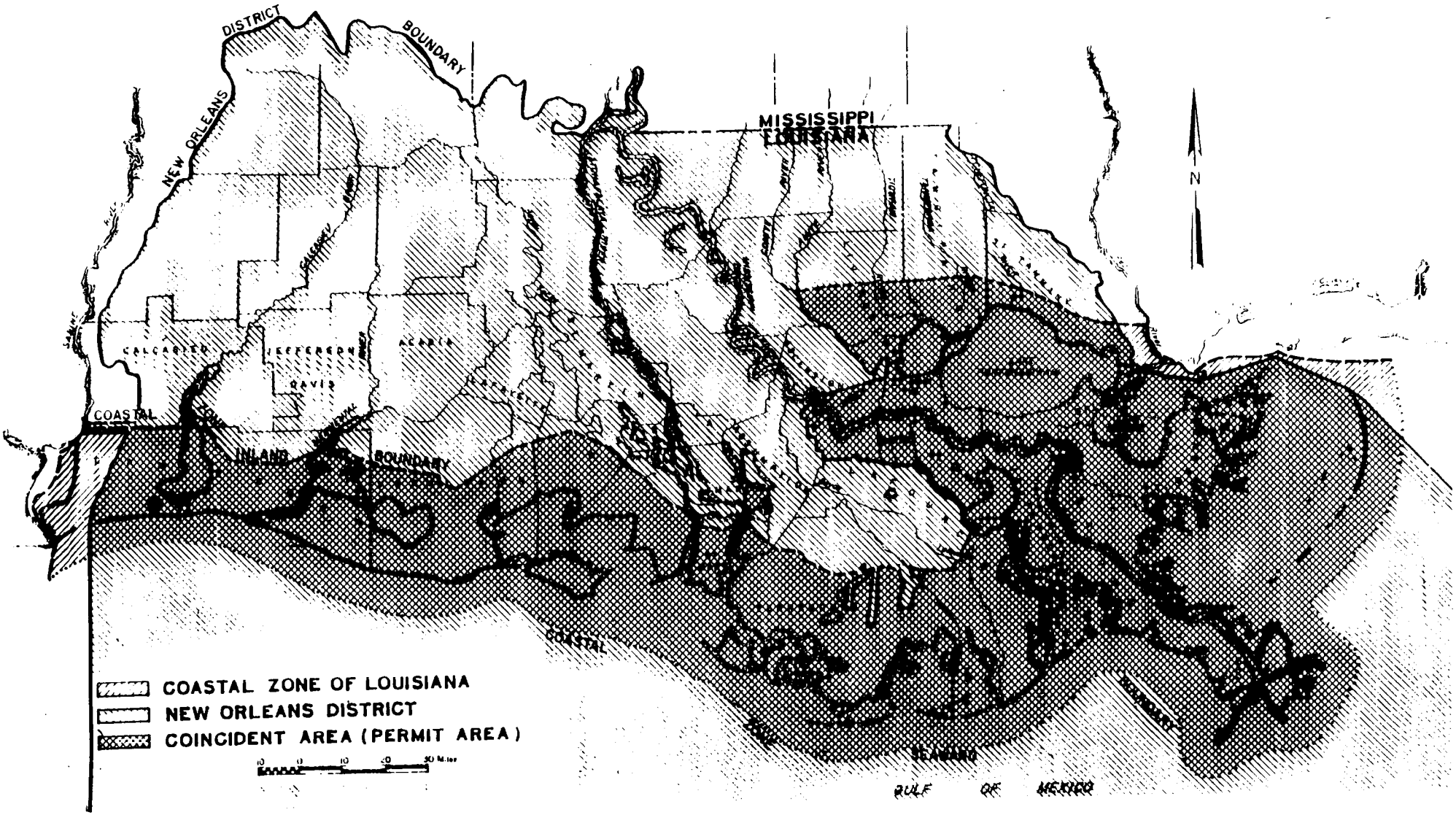
Individual approvals granted to applicants under this general permit allow 5 years, from the date of the approval letter, for completion of the project.

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

[redacted]

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

1. District Boundary Map and Coastal Zone Boundary Map
2. ENG Form 4345


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

DEPARTMENT OF THE ARMY PERMIT

Permittee _____

Permit 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:

(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).~~

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.