DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P. O. BOX 60267
NE W ORLEANS, LOUISIANA 701600267

REPLY TO
ATTENTION OF:
Operations Division
Regulatory Branch

NOV 2 1 2011

MVN-2000-02083-CS
(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 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 June 7, 1985, has been extended for 5 years until November 30, 2016. The proposed time extension was advertised for public comment on September 19, 2011. The following condition is being added to this authorization:

y. In order to ensure that fish and wildlife conservation is considered equally with the maintenance of existing projects located within the Atchafalaya Basin Floodway Area (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.

All available information was considered in determining that the overall public interest would best be served by extending this general.

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.

[redacted]
for Pete J. Serio
Chief, Regulatory Branch

Enclosures

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

DEPARTMENT OF THE ARMY

GENERAL PERMIT

NOV 21 2011

TIME EXTENSION AND MODIFICATION FOR MAINTENANCE DREDGING IN INDIVIDUAL OIL AND/OR GAS WELL CANALS AND SLIPS, WELL STRUCTURES AND PRODUCTION FACILITIES IN OPEN WATERS OR MANMADE CANALS, AND CONSTRUCTION AND MAINTENNACE 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: June 7, 1985

Expiration Date: November 30, 2016

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 and production facilities in open waters or manmade oil and gas well canals.

e. 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 1,000 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 outside the Louisiana Coastal Management Zone is 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.

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 November 30, 2016. 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 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 applicant does not at all time 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 determine if alternate practical 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 applicant 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 (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 applicant 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 with, 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 applicant agrees that he will prosecute the construction of work authorized by this general permit in a manner so as to minimize any degradation of water quality.

t. The applicant 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, applicants must obtain a water quality certification from the Louisiana Department of Environmental Quality before work authorized by this general permit may legally proceed.

w. For projects requiring authorization under Section 404 of the Clean Water Act, a compensatory mitigation plan to offset unavoidable wetland losses will be included with the application. 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 areas as the project site). 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 and values of the affected wetlands at the project site. It may be performed on Federal Wildlife Refuges, state wildlife management areas, and parish and private lands. If so, then the plan must include a letter from the refuge or land manager agreeing to the proposed plan. Compensatory mitigation shall be initiated within 90 days (or the first planting season of December-March, if applicable) of commencement of work under the general permit, and shall be completed no later than 2 years from the date of initiation.

x. 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.

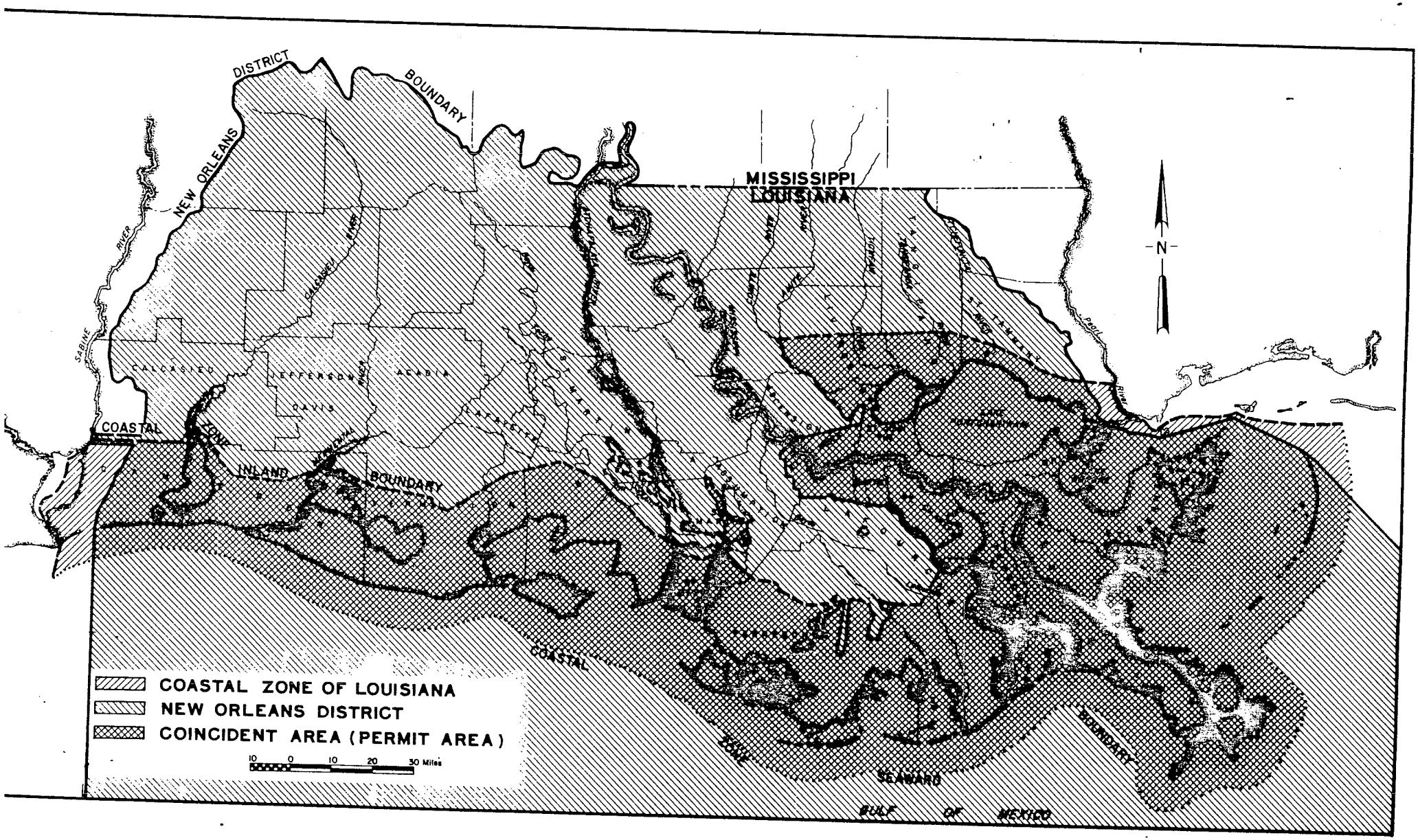
y. For general permit applications that are located within the boundaries of the Atchafalaya Basin Floodway, see enclosed map, a copy of the application and associated drawings will be sent to the US Fish and Wildlife Service (FWS) for a 10-day review and comment period. Concurrences may be forwarded 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.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

[redacted]

for Pete J. Serio
Chief, Regulatory Branch
for
Edward R. Fleming
Colonel, U. S. Army
District Commander

Atchafalaya Basin Floodway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ENCLOSURE 1