



# DEPARTMENT OF THE ARMY

NEW ORLEANS DISTRICT, CORPS OF ENGINEERS

P.O. BOX 60267

NEW ORLEANS, LOUISIANA 70160-0267

REPLY TO  
ATTENTION OF:

JAN 26 2009

Operations Division  
Regulatory Branch

SUBJECT: CEMVN-OD-S (General Permit) NOD-128  
MVN 2003-2867 WB

## DEPARTMENT OF THE ARMY

### GENERAL PERMIT

FOR

### SMALL WHARVES, BOAT SHEDS, BULKHEADS, AND ASSOCIATED DREDGE AND FILL ACTIVITIES

AUTHORIZATION NO.: (General Permit) NOD-128

EFFECTIVE DATE: March 31, 1993

EXPIRATION DATE: December 31, 2013

Specific legislation requiring Department of the Army permits for these activities are:

- a. Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403).
- b. Section 404 of the Clean Water Act (33 USC 1344).

The types of projects specifically intended for authorization under this general permit are the construction of small wharves, boat sheds, bulkheads, and associated dredge and fill activities for private use within the boundaries of the New Orleans District. To obtain approval under this general permit, projects must comply with the following conditions:

- a. The maximum length of the bulkhead will be 200 feet.
- b. In rivers, streams, or bayous, bulkheads may not be constructed channelward of the mean low water shoreline; in lakes, bays, or arms of the sea, bulkheads may not be constructed channelward of the mean high water shoreline.

c. To the maximum extent practicable, bulkheads shall be constructed at the mean high water shoreline; otherwise they shall be constructed no more than 6 feet channelward from the mean high water shoreline, provided the project meets the terms of condition b above. Bulkheads shall not block tidal inlets or hydrologically isolate more than 1 acre of tidal wetlands.

d. Dredging may be performed along the length of the proposed bulkhead from the bank to the centerline of the channel to a maximum depth of the existing centerline depth. However, dredging of vegetated wetlands adjacent to bulkheads is not authorized under this general permit.

e. Dredged material may not be placed in vegetated wetlands and must be free of contaminants.

f. Dredged material may be placed behind bulkheads to the elevation of the existing high bank or the top of the bulkhead, whichever is less.

g. Wharves, decks, and piers up to 300 square feet, as well as single story timber or float supported boat sheds that cannot serve as a camp or residence may be authorized provided that any of the structures identified above:

1) are no longer (i.e. channelward extension into waterway) than 10 percent of the waterway width at the project site, or

2) will not cause unreasonable interference with navigation; the permittee must adhere to U.S. Coast Guard lighting and marking requirements.

h. Work authorized under this general permit is limited to private, non-commercial purposes.

i. This general permit cannot be used for piecemeal activities, nor is it valid for any activity that is part of an overall project for which the New Orleans District has determined that an individual permit is required.

The proposed general permit would not authorize work within the following areas:

- a. Within 1,500 feet of a known rookery area.
- b. Within an area that will adversely affect federally listed threatened or endangered species or their critical habitat (e.g., within 0.5 o a mile of a known bald eagle nest site).
- c. 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 and local governments without the written consent of the appropriate agency or governing body.
- d. At or within close proximity to any known historic or archeological sites or within the boundaries of a historic district without the written approval or waiver from the State Historic Preservation Officer or the appropriate authority.
- e. Streams included in a state or federal system of scenic and natural waterways.
- f. Natural or man-made waterways which are components of Corps of Engineers flood control, hurricane protection, or navigation projects until reviewed by the appropriate elements of the New Orleans District.
- g. Within any oyster seed ground, oyster reservation, oyster producing areas, or public oyster harvesting grounds.

Work authorized by this general permit would be subject to applicable conditions on ENG Form 1721 (enclosure 1), as well as those stated above. Additional conditions may be added to the general permit by the District Engineer if it is found to be in the public interest to do so. The District Engineer may choose

not to grant approval under this general permit and may require that the project be evaluated as an individual permit.

Work authorized under this general permit may not commence 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 coastal use permit or waiver (if applicable) signed by the Secretary of the Louisiana Department of Natural Resources or his/her designee; and

2. A water quality certification (if required) from the Louisiana Department of Environmental Quality, Office of Water Resources.

Applicants requesting authority to perform work under this general permit would be required to provide the following:

1. A completed application form (ENG form 4345).

2. A location map on 8 1/2- by 11-inch paper.

3. Plan view and cross section drawings clearly depicting the proposed work, amount of material to be dredged and/or deposited in cubic yards, dimensions of all work areas and structures, and a graphic scale, all shown on 8 1/2- by 11-inch paper (sample drawings are attached at enclosure 2).

4. For projects which include bulkheads, a discussion of alternative stabilization methods (i.e., riprap, gobimats) considered and reasons why an apparently less damaging alternative was not selected.

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

6. 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.

7. If the proposed project, or future maintenance work, involves the use of floating construction equipment (barge mounted cranes, barge mounted pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.,) in the waterway, you are advised to notify the U.S. Coast Guard 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 U.S. Coast Guard, Sector New Orleans Command Center, 201 Hammond Highway, Metairie, Louisiana 70005, about 1 month before you plan to start work. Telephone inquiries can be directed to (504) 846-5923.

8. 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 structure 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:



Pete J. Serio  
Chief, Regulatory Branch  
for  
Alvin B. Lee  
Colonel, US Army  
District Engineer

Enclosures

## 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 "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permit 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 archaeological 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. 408).
- ( ) 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.

- 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 328.4 and 328.8. 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)

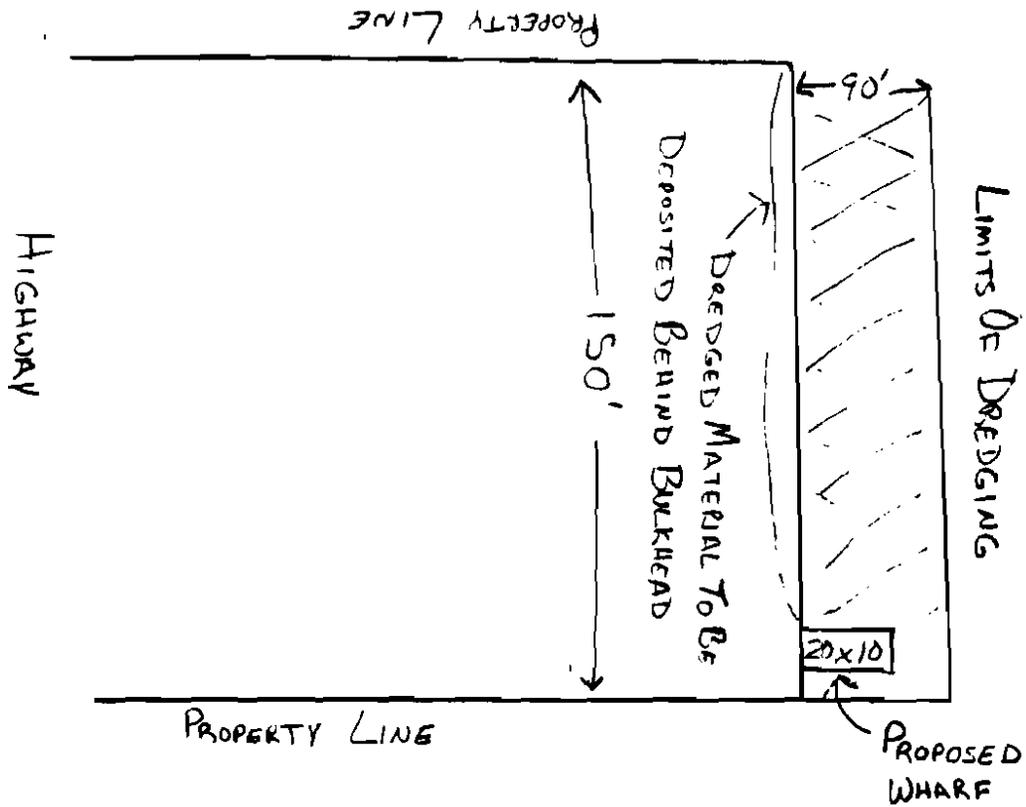
\_\_\_\_\_  
(DATE)

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)

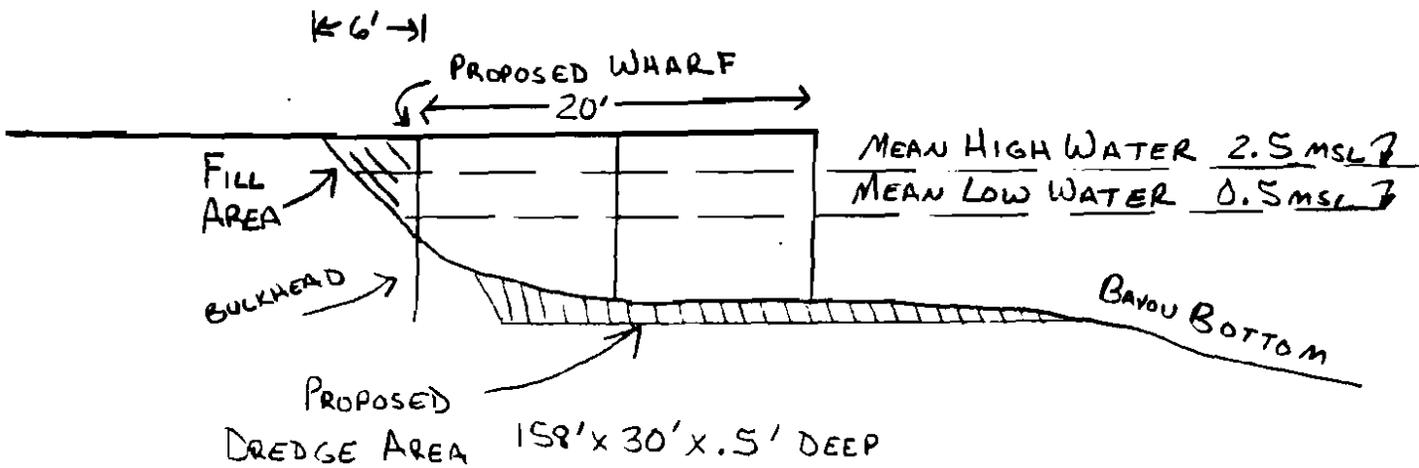
\_\_\_\_\_  
(DATE)

# BAYOU X



PLAN VIEW  
SCALE 1" = 50'

CROSS SECTION  
SCALE 1" = 10'



≈ 87 CUBIC YARDS TO BE REMOVED AND DEPOSITED