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

DEC - 5 2011

REPLY TO
ATTENTION OF:
Operations Division
Regulatory Branch

SPECIAL PUBLIC NOTICE

TIME EXTENSION & MODIFICATION OF THE PROGRAMATIC GENERAL PERMIT FOR ACTIVITIES WITHIN THE COINCIDENTAL BOUNDARIES OF THE LOUISIANA COASTAL ZONE AND THE NEW ORLEANS DISTRICT

Interested parties are hereby notified that the general permit, originally issued by this district on June 1, 1998, has been modified and extended for 5 years until November 30, 2016. A copy of the general permit is enclosed.

In response to the public notice dated April 25, 2011, advertising the proposed time extension and modifications, the permit has been modified accordingly and the time extended for five more years.

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

Additional comments or suggestions for further modification of this general permit are solicited. 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 do so.

[redacted]

Pete J. Serio
Chief, Regulatory Branch

Enclosure

CEMVN
Regulatory Branch

SUBJECT: Programmatic General Permit

A PROGRAMMATIC GENERAL PERMIT
FOR USE IN THE NEW ORLEANS DISTRICT
WITHIN THE BOUNDARIES OF THE LOUISIANA COASTAL ZONE

Under authorization granted by applicable sections of Parts 320 through 332 of Title 33, Code of Federal Regulations, and delegated authority from the Commander, US Army Corps of Engineers, the District Commander at New Orleans has determined that it is in the public interest to extend the programmatic general permit (**PGP**) to authorize those activities that result in minimal adverse impacts within the boundaries of the Louisiana Coastal Zone, as specified by the terms and conditions of this PGP.

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).

Waters of the United States are defined in Part 328 of Title 33, Code of Federal Regulations.

Special aquatic sites means wetlands, mudflats, vegetated shallows, coral reefs, sanctuaries and refuges, and riffle and pool complexes, as defined at 40 CFR 230.40 through 230.45.

This PGP does <u>not</u> 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).

GENERAL EXCLUSIONS

I. The following work will not be eligible under this PGP. Applications for this work will be processed in accordance with 33 CFR Part 325:

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

(2) Activities which are not covered under the Louisiana Coastal Resources Program as implemented by the Louisiana Department of Natural Resources, Office of Coastal Management (OCM).

(3) No activity is authorized under this PGP which may adversely affect the continued existence, or which will destroy or adversely modify the critical habitat, of a threatened or endangered species, or a species proposed for such a designation, as identified under the Federal Endangered Species Act.

(4) Work or structures within 1,500 feet of any mainline flood control and hurricane damage risk reduction levees, structures, etc. constructed and/or maintained with federal funds without prior coordination with, and the concurrence from, the US Army Corps of Engineers, New Orleans District (CEMVN).

(5) 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.

(6) Projects of national or individual 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 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; or specific activities for which agencies request, and provide justification for, the requirement of an individual permit review.

II. The following activities will likely be excluded for consideration under this PGP:

a. Work within 1 mile of offshore navigation fairways and anchorages
b. Commercial sand dredging in the Mississippi River
c. Barge fleeting
d. Mid-stream transfer facilities in the Mississippi River
e. Channelward extensions of existing facilities in federally maintained waterways
f. Waterway closures (excluding plugs in abandoned canals)
g. New marsh management

h. New water control structures
i. Contaminated sediment excavation and/or disposal, including but not limited to such activities proposed in Harvey Canal, Bayou Trepagnier, and Calcasieu River
j. Deposition of material in Corps disposal areas
k. Activities that would impact environmentally sensitive areas (e.g., barrier islands, bird rookeries, coral reefs, seagrass beds, etc.)
l. Activities adversely affecting Coastal Wetlands Planning Protection and Restoration Act (PL 646) projects
m. Projects which would impact the hydrology of adjacent wetlands such that the acreage criteria established in this permit are exceeded
n. Artificial reefs except those made of shell or similar material

INCLUSIONS

Category I Activities

What follows is a listing of activities which fall under Category I. The format of this general permit has been designed so that all similar activities have been grouped together where the purpose and the nature of that impact is similar. These activities are further limited, **unless otherwise noted**, by the acreage being impacted. CEMVN will verify qualification of specific activities for Category I authorization. The procedures for properly applying for and obtaining approval are found in the section of this document entitled 'Reporting/Acknowledgment Procedures'.

For the purposes of this permit, the acreage limitations established include the area flooded, drained, filled, or excavated, unless otherwise indicated. For activities to comply with Category I, they cannot cause the loss of greater than 0.5 of an acre of special aquatic sites.

1. Oil and gas activities including shell pads for drilling activities, exploration and production structures or extensions thereof, new channels or slips less than 0.5 of a mile in length in open water, and other related activities.

2. Survey activities not including 3D seismic activities.

3. Flowlines/pipelines 25,000 linear feet or less in length and not located within special aquatic sites. Includes minor activities associated with pipeline abandonment.

4. Hazardous condition response activities. For purposes of this general permit, a hazardous condition is a situation which would result in an imminent safety and/or environmental hazard, loss of property, or immediate economic hardship if corrective action

requiring a permit is not undertaken within a time period less than the normal time period needed to process the application.

Applicants will submit sufficient information to document the hazardous condition and scope of work. This authorization is conditional. Within 30 days of the authorization, permittees will be required to submit an application for any work performed, or needed to be performed, to rectify the hazardous situation. The application will be processed in the appropriate manner. Alternatively, if the structures and/or fill installed to remediate the hazard are no longer necessary, the permittee must submit a site restoration plan for review and authorization by CEMVN. Restoration plans must be implemented within 30 days of receipt of CEMVN concurrence, unless otherwise specified (acreage limits for the initial request do not apply).

5. Dredging of existing waterbodies. Excavation cannot exceed 25,000 cubic yards of material.

6. Maintenance of existing structures and fill provided the structures or fill are not put to uses differing from those uses specified or contemplated for it. The activity must be the repair, rehabilitation or replacement of a currently serviceable structure or fill. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This does not include maintenance dredging or beach restoration.

7. Miscellaneous structures including mooring buoys and aids to navigation which are approved by and installed in accordance with the requirements of the U.S. Coast Guard.

8. Scientific measuring devices. Devices to measure and record scientific data such as staff gauges, tide gauges, water quality testing, etc.

9. Sealed forms or cells for pile supported structures.

10. Fish and wildlife harvesting, enhancement, and attraction devices and activities. Examples include pound nets, crab traps, duck blinds, clam and oyster digging, and small fish attraction devices.

11. Single piles, pile clusters.

12. Trenasse (pirogue ditch) maintenance. The maximum width of the trenasse shall not exceed 6 feet with a maximum depth of 3 feet.

13. Minor road crossings. Placement of fill for a road, including the placement of culverts provided bank full flow is maintained. Includes cattle crossings.

14. Bank stabilization. Activity may not exceed 200 feet in length and greater than 1 cubic yard per linear foot of fill placement below the plane of the ordinary high water mark or mean high water line whichever applies.

15. Erosion Protection and Restoration along public highways which parallels or is adjacent to waterbody, up to one mile in length provided the work is performed by LA DOTD, parish or municipal highway department. No dredging is authorized (except that material which has sloughed from the embankment), bulkheads must be placed at the existing bankline, and work may include revetment and fill to repair and maintain existing bridge sites.

16. Wharves, piers, and similar structures, structures in manmade canals, small boat slips, boat ramps, and associated fill and appurtenances. Structures may neither exceed 300 square feet in area, nor extend channelward more than 10 percent of the waterway bank-to-bank distance, nor cause unreasonable interference to navigation. Boat slips/ramps up to 25 feet by 12 feet in area.

17. Categorical Exclusions: Activities which are undertaken, funded, authorized, regulated, or financed, in whole or in part, by another federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, that the activity work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually or cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.

18. Work not specifically excluded which clears, grades, fills or excavates no greater than 0.5 of an acre of special aquatic sites, as deemed applicable by CEMVN.

Category II Activities

What follows is a listing of all of the activities which fall under Category II. The format of this general permit has been designed so that all similar activities have been grouped together where the purpose and the nature of that impact is similar. These activities are further limited, **unless otherwise noted**, by the acreage being impacted. For activities to comply with Category II the impact is limited as follows:

Non-oil and gas related activities may result in the loss of no greater than 2.0 acres of tidal or 3.0 acres of non-tidal, special aquatic sites. Oil and gas related activities may result in the loss of no greater than 3.5 acres tidal or non-tidal special aquatic sites.

1. Oil and gas activities, including board roads, ring levees, exploration and production structures or extensions, new oil and gas canals and slips, parallel/perpendicular slips, etc.

2. Seismic surveys (acreage limits do apply).

3. Flowlines, pipelines and utility lines constructed in special aquatic sites, or greater than 25,000 linear feet in length that are not in special aquatic sites, and all aerial transmission lines. Must utilize the least damaging, practicable route and construction method, otherwise an individual permit will be required. Power transmission lines must comply with regulations found at 33 CFR Part 322.5(i).

4. Cleanup of hazardous and toxic waste. For toxic and hazardous waste, the activity must be sponsored by a government agency with established legal or regulatory authority or be court ordered. (Acreage limits do not apply)

5. Oil spill cleanup. The work must be done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR part 112.3. Activities will be subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300), and work must be done in accordance with the Spill Control and Countermeasure Plan required by 40 CFR part 112.3. Work must also comply with any State Contingency plan and the Regional Response Team must concur with the action. (Acreage limits do not apply)

6. Dredging of existing waterbodies. Excavation cannot exceed 40,000 cubic yards of material (volume limits do not apply to activities being conducted for the purpose of wetland restoration).

7. Outfall structures: Provided the effluent is in compliance with regulations issued under the National Pollutant Discharge Elimination System (Section 402 of the Clean Water Act).

8. Wharves, piers, and similar structures, structures in manmade canals, small boat slips, boat ramps, and associated fill and appurtenances. Structures may exceed 300 square feet in area, but may neither extend channelward more than 10 percent of the waterway bank-to-bank distance, nor cause unreasonable interference to navigation. Boat slips/ramps may exceed 25 feet by 12 feet in area.

9. Erosion Protection and Restoration along public highways which parallels or is adjacent to waterbody, one mile in length and greater provided the work is performed by the LA DOTD, parish or municipal highway department. No dredging is authorized (except that material which has sloughed from the embankment), bulkheads must be placed at the existing bankline, and work may include revetment to repair and maintain existing bridge sites.

10. Bank stabilization. Activities that are greater than 200 linear feet in length, but do not exceed 500 linear feet, or where fill placement exceeds 1 cubic yard per running foot below the plane of the ordinary high water mark or mean high water line whichever applies.

11. Categorical Exclusions. Activities which are undertaken, funded, authorized, regulated, or financed, in whole or in part, by another federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, that the activity work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually or cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.

12. Small weirs, flumes and similar scientific measuring devices provided aquatic organism movement is minimally impeded.

13. Wetland restoration and creation activities. Activities specifically designed which have a beneficial effect on wetlands and/or aquatic resources, as determined applicable by CEMVN. Limits on the volume of dredged material do not apply. Mitigation banks/areas excluded.

14. Work not specifically excluded which clears, grades, fills or excavates no greater than 2.0 acres of tidal, or 3.0 acres of non-tidal, special aquatic sites, as determined applicable by CEMVN.

REPORTING/ACKNOWLEDGMENT PROCEDURES

A. COMPLETE APPLICATION

Requests for authorization under the PGP require the applicant to make application to the DNR, OCM; **an electronic version of the application can be found** at http://www.dnr.la.gov. The applicant's submittal must include a fully completed joint application form and project plans showing all work for which a permit is being requested. OCM will electronically forward the application to CEMVN.

A "**complete**" application consists of the following:

(1) A completely filled out joint on-line application form.

(2) Vicinity Map - You may use an existing road map or U.S. Geological Survey topographic map. This map should include:

(i) Location of activity site (draw an arrow showing the <u>exact</u> location of the site on the map).

(ii) Latitude, longitude, and section, township and range, if known.

(iii) Names, descriptions and location of landmarks.

(iv) Name of and distance to nearest town, community, or other identifying locations, including parish.

(V) Names or numbers of all roads in the vicinity of the site.

(vi) North arrow.

(vii) Scale.

(3) Plan view and cross section drawings of the proposed work which include:

(a) Primary dimensions of the activity.

(b) Graphic or numeric scale.

(c) Volume (cubic yards), source, and type of dredged/fill material(s).

(d) Mean low and high water marks.

(4) A statement that the proposed project is consistent with the approved state coastal zone management program.

For the following application types to be considered "complete", additional information may be required:

1) New oil/gas well or reinjection well applications that would result in adverse impacts to special aquatic sites must have undergone an interagency Geologic Review Meeting. The least damaging practicable alternative identified therein may qualify for PGP authorization provided it complies with the criteria of the PGP.

2) Residential subdivisions or an individual single family home within an existing subdivision must include a subdivision layout.

3) Activities on state operated wildlife management areas or federal refuges must include a written approval from the management area/refuge manager.

4) Projects where the permitted activity requires site restoration upon abandonment of the activity must include signed statements from the affected landowners that they have no objection to the required restoration and that they agree not to develop the restoration areas without prior approval from CEMVN.

5) Projects where a Corps approved wetland determination is necessary in order to assess the potential impacts of the proposed work.

Proposals not considered "complete" will be placed "on-hold" until such time as **all** required information is obtained.

B. PROCEDURE

1. Category I activities:

Within 10 working days of the Corps receiving a complete application, the Corps will determine whether the requirements of Category I are met and within such time issue an authorization letter (with any necessary special conditions), to the permittee. If authorization is not granted within 45 days, the Corps will be deemed to have granted authorization.

2. Category II activities:

Within 10 working days of the Corps receiving a complete application, the Corps will notify the applicant that the project will be evaluated as a standard permit, or forward a copy of the application and drawings to the US Fish and Wildlife Service, National Marine Fisheries Service, US Environmental Protection Agency, Louisiana Department of Environmental Quality, and Louisiana Department of Wildlife and Fisheries for review. These agencies will have 5 working days to submit comments or request additional review time not to exceed 20 working days total. Concurrences may be forwarded to the Corps via telephone or electronic mail, non-concurrences must be made in writing with an information copy sent to the applicant which includes a description of the impact(s) considered to be more than minimal*. Lack of a response from these resource agencies within the appropriate time frame will be considered as no objection or no position by those agencies.

Within 15 working days following the comment period, the Corps will either:

a) issue an authorization letter (with any necessary special conditions), to the permittee, or;

b) issue an authorization letter with modifications as recommended by the resource agencies or the Corps, or;

c) issue a notice to the applicant that the project will be evaluated as a standard permit.

For Category I and II activities, OCM and, where appropriate DEQ, will be notified at the same time the applicant is notified of the Corps' determination in all of the above situations.

* Corps non-concurrence of the reviewing resource agencies objections and/or recommendations will be made in writing by the District Commander (or his designee) to the respective agency.

C. MITIGATION

Appropriate compensatory mitigation will be required for unavoidable adverse impacts which remain after all appropriate and practicable minimization has been attained. The objective of compensatory mitigation is to replace wetland functions, values and services impacted by implementation of the permitted activity. Compensatory mitigation may include, but is not limited to, contracting with a mitigation bank to provide the credits to fully offset the impact; donations to/contracts with a state or federal wildlife refuge, or an approved fund or organization, for the creation, restoration or enhancement of wetlands, or; the permittee's implementation of a wetland mitigation project determined to be acceptable by CEMVN and OCM (i.e., permittee responsible mitigation).

CEMVN is obligated to ensure the appropriateness and adequacy of compensatory mitigation in accordance with Corps national mitigation policy. CEMVN recognizes that although the State supports a goal of achieving no net loss of coastal wetlands as specified in the April 1997 Louisiana Coastal Wetlands Conservation Plan, differences in regulations and policies promulgated by the state and federal programs may not facilitate alignment of compensatory mitigation requirements in all instances. When CEMVN determines potentially affected resource values to be of sufficient concern so as to ensure the compliance of a prospective PGP with Corps mitigation policy, CEMVN will coordinate such findings with OCM with the intent to implement compensatory mitigation requirements that are consistent with state and federal regulations. Should CEMVN and OCM achieve concurrence on compensatory mitigation requirements, CEMVN will finalize the decision on the PGP accordingly. In the event concurrence on the compensatory mitigation requirement is not achieved, CEMVN will either stipulate its compensatory mitigation

requirements in the PGP authorization, or pursue evaluation of the activity in according with Standard Permit application procedures, whichever is appropriate. Although it is recognized that the complexity of compensatory mitigation coordination may increase process time, CEMVN will adhere to the procedural timeframe defined above to the extent practicable.

CEMVN also recognizes the interest of the State in locating compensatory mitigation for those actions located outside the Louisiana Coastal Zone, but within the Louisiana Coastal Wetlands Conservation Plan Area (LCPA), within the LCPA. CEMVN is committed to facilitate mitigation site selection within the LCPA to the extent that adherence to Corps national mitigation policy is not compromised.

CEMVN and OCM will assess mitigation performance instituted pursuant to PGP implementation as needed, or when requested by either agency.

D. SPECIAL CONDITIONS See Special Conditions at End of Document

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

E. AUTHORIZATIONS

No work may be performed under the PGP unless and until:

(1) The New Orleans District has reviewed the application and has issued a written authorization or, in special cases, a verbal authorization.

(2) All required local, state and other federal permits, licenses, authorizations, and certifications are obtained. This includes, but is not limited to:

(a) A coastal use permit, consistency determination, or finding of No Direct Significant Impact signed by the Secretary of the Louisiana Department of Natural Resources or his designee, and

(b) A water quality certification (if required) from the Louisiana Department of Environmental Quality.

This general permit is valid for 5 years from its effective date unless otherwise modified or reissued.

Individual authorizations granted to applicants under this PGP are valid for 5 years from the date of the authorization letter.

BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

[redacted]

Pete J. Serio
Chief, Regulatory Branch

1. Activities authorized under this general permit shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single and complete project shall be treated together as constituting one single and complete project. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. This general permit shall not be used for any activity that is part of an overall project for which an individual permit is required.

2. No activity is authorized under this general permit which may adversely affect significant cultural resources listed or eligible for listing in the National Register of Historic Places until the requirements for Section 106 of the National Historic Preservation Act are met. Upon discovery of the presence of previously unknown historic and/or prehistoric cultural resources, all work must cease and the permittee must notify the State Historic Preservation Office and the Corps of Engineers. The authorization is suspended until it is determined whether or not the activity will have an adverse effect on cultural resources. The authorization may be reactivated or modified through specific conditions if necessary, if it is determined that the activity will have no adverse effect on cultural resources. The CEMVN-PGP authorization will be revoked if it is determined that cultural resources would be adversely affected, and an individual permit may be necessary.

3. The Chitimacha Tribe of Louisiana has stated that the project area is part of the aboriginal Chitimacha homelands. If during the course of work at the site, prehistoric and/or historic aboriginal cultural materials are discovered, the applicant will contact the Chitimacha Tribe of Louisiana at P.O. Box 661, Charenton, LA 70523, and CEMVN. CEMVN will initiate the required Federal, State, and Tribal coordination to determine the significance of the cultural materials and the need, if applicable, for additional cultural resource investigations.

4. 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, 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 the authorization.

5. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to block or impound water.

6. If the proposed activity involves the installation of aerial transmission lines, submerged cable, or submerged pipelines across navigable waters of the United States the following is applicable:

The National Ocean Service (NOS) has been notified of this authorization. You must notify NOS and this office in writing, at least two weeks before you begin work and upon completion of the activity authorized by this permit. Your notification of completion must include a drawing which certifies the location and configuration of the completed activity (a certified permit drawing may be used). Notification to NOS will be sent to the following address: National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Springs, Maryland 20910-3282.

7. For pipelines under an anchorage or a designated fairway in the Gulf of Mexico the following is applicable:

The National Ocean Service has been notified of this authorization. You must notify NOS and this office in writing, at least two weeks before you begin work and upon completion of the activity authorized by this permit. Within 30 days of completion of the pipeline, 'as built' drawings certified by a professional engineer registered in Louisiana or by a registered surveyor shall be furnished to this office, the Commander (dpw), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, Louisiana 70130, and to the Director, National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Springs, Maryland 20910-3282. The plans must include the location, configuration and actual burial depth of the completed pipeline project.

8. 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 a federally maintained waterway, 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 (dpw), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, Louisiana 70130, about 1 month before you plan to start work. Telephone inquiries can be directed to (504) 671-2112.

9. All activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters if 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.

10. Substantive changes to the Louisiana Coastal Resources Program may require immediate suspension and revocation of this permit in accordance with 33 CFR 325.7.

11. Irrespective of whether a project meets the other conditions of this permit, the Corps of Engineers retains discretionary authority to require an individual Department of the Army permit when circumstances of the proposal warrant this requirement.

12. Any individual authorization granted under this permit may be 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 that such action would otherwise be in the public interest.

13. The Corps of Engineers may suspend, modify, or revoke this general permit if it is found in the public interest to do so.

14. Activities proposed for authorization under the PGP must comply with all other necessary federal, state, and/or local permits, licenses, or approvals. Failure to do so would result in a violation of the terms and conditions of CEMVN-PGP.

15. The permittee shall permit the District Commander or his authorized representative(s) or designee(s) to make periodic inspections of the project site(s) and disposal site(s) if different from the project 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.

16. This 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 requirements to obtain state or local assent required by law for the activity authorized herein.

17. 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 authorization may be modified, suspended, or revoked, in whole or in part.

18. For activities resulting in sewage generation at the project site, such sewage shall be processed through a municipal sewage treatment system or, in areas where tie-in to a municipal system is not practical, the on-site sewerage system must be approved by the local parish sanitarian before construction.

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

20. Additional conditions deemed necessary to protect the public interest may be added to the general permit by the District Commander at any time. If additional conditions are added, the public will be advised by public notice. Individual authorizations under CEMVN-PGP may include special conditions deemed necessary to ensure minimal impact and compliance with CEMVN-PGP.

21. CEMVN-PGP is subject to periodic formal review by CEMVN and OCM in coordination with the Environmental Protection Agency, US Fish and Wildlife Service, the National Marine Fisheries Service, and the Louisiana Department of Wildlife and Fisheries. Comments from reviewing agencies will be considered in determination as to whether modifications to the general permit are needed. Should the District Commander make a determination not to incorporate a change proposed by a reviewing agency, after normal negotiations between the respective agencies, the District Commander will explain in writing to the reviewing agency the basis and rationale for his decision.

22. CEMVN retains discretion to review CEMVN-PGP, its terms, conditions, and processing procedures, and decide whether to modify, reissue, or revoke the permit. If CEMVN-PGP is not modified or reissued within 5 years of its effective date, it automatically expires and becomes null and void.

23. 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.

24. 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 as described in Special Condition 26 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.

25. 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.

26. If you sell the property associated with this permit, you must provide this office with a copy of the permit and a letter noting your agreement to transfer the permit to the new owner and the new owners agreement to accept the permit and abide by all conditions of the permit. This letter must be signed by both parties.

27. 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.

28. Many local governing bodies have instituted laws and/or ordinances in order to regulate dredge and/or fill activities in floodplains to assure maintenance of floodwater storage capacity and avoid disruption of drainage patterns that may affect surrounding properties. Your project involves dredging and/or placement of fill; therefore, you must contact the local municipal and/or parish governing body regarding potential impacts to floodplains and compliance of your proposed activities with local floodplain ordinances, regulations or permits.

29. In issuing authorizations under this permit, the federal government does not assume any liability for: damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; 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; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit, and; design or construction deficiencies associated with the permitted work.

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.

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.

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)*

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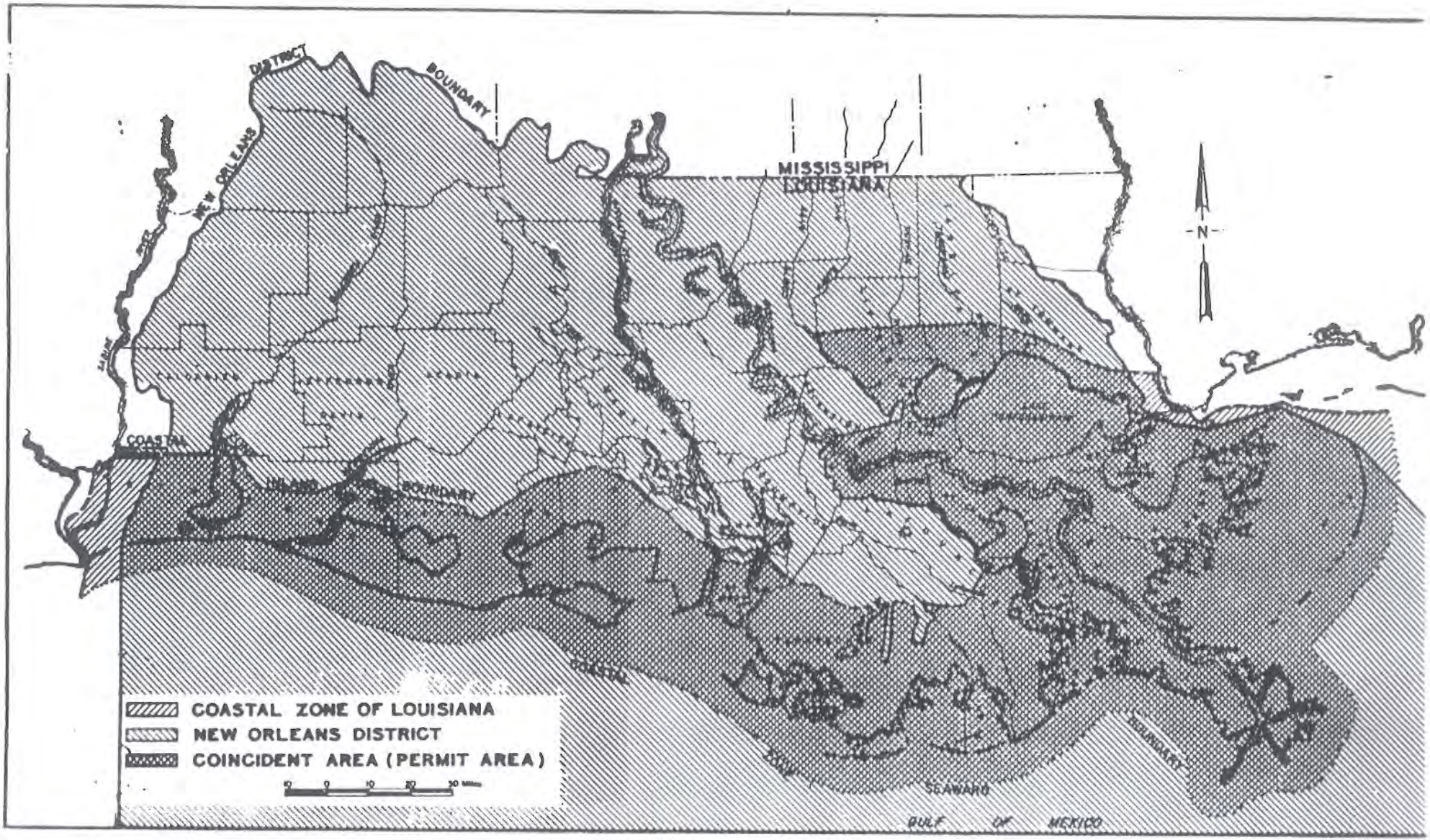

ATTACHMENT II