

JOINT PUBLIC NOTICE

August 31, 2015

United States Army
Corps of Engineers
New Orleans District
Regulatory Branch
Post Office Box 60267
New Orleans, Louisiana 70160-0267

State of Louisiana
Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821

(504) 862-1280
Project Manager
Brandon Gaspard
Permit Application Number
MVN 2003-2867-MG

(225) 219-3003
Project Manager
Elizabeth Hill
WQC Application Number
150818-01

SPECIAL PUBLIC NOTICE

PROPOSED TIME EXTENSION AND REVISIONS TO GENERAL PERMIT GP-128 FOR SMALL WHARVES, BOAT SHEDS, BULKHEADS, AND ASSOCIATED DREDGE AND FILL ACTIVITIES WITHIN THE NEW ORLEANS DISTRICT

The general permit GP-128 (previously known as NOD-128) was originally issued on March 31, 1993, and expired on December 31, 2013. GP-128 proved to be an effective method to authorize certain projects within the New Orleans District in a timely manner without the need for a public notice and its related costs. Evaluating applications under the general permit procedures for projects that qualify because of their minor impacts allows for better use of personnel resources, yet still allows adequate impact review. A copy of the revised general permit is attached.

Application has also been made to the Louisiana Department of Environmental Quality, Office of Environmental Services, for a Water Quality Certification (WQC) in accordance with statutory authority contained in Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) and provisions of Section 401 of the Clean Water Act (P.L.95-17).

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **30 days** from the date of this joint public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Similar letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above.

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 5:00 p.m. Copies may be obtained upon payment of costs of reproduction.

Corps of Engineers Permit Criteria

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public, federal, state, and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to make, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

No properties listed on the National Register of Historic Places are near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are being sent to the State Archeologist and the State Historic Preservation Officer.

Our initial finding is that the proposed work would neither affect any species listed as endangered by the U.S. Departments of Interior or Commerce, nor affect any habitat designated as critical to the survival and recovery of any endangered species.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or federally managed fisheries in the Gulf of Mexico.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, Office of Environmental Services before a permit is issued.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

Applicants for GP-128 must certify that the proposed work complies with and will be conducted in a manner that is consistent with the Louisiana Coastal Management Program.

Martin S. Mayer
Chief, Regulatory Branch

Enclosures



REPLY TO
ATTENTION OF

Operations Division
Regulatory Branch

SUBJECT: CEMVN-OD-S(General Permit) GP-128
MVN 2003-2867-MG

DEPARTMENT OF THE ARMY
GENERAL PERMIT
FOR
SMALL WHARVES, BOAT SHEDS, BULKHEADS, AND
ASSOCIATED DREDGE AND FILL ACTIVITIES

AUTHORIZATION NO.: (General Permit) GP-128

EFFECTIVE DATE: March 31, 1993

EXPIRATION DATE: December 31, 2025

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 colonial bird nesting site.

b. Within an area where the activity is likely to adversely affect federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species.

c. Work authorized under General Permit GP 128 may not be performed in areas where the activity is likely to result in a "disturbance" to bald eagles. Applicants are advised to review the National Bald Eagle Management (NBEM) Guidelines to make this determination. A copy of the NBEM Guidelines is available at: <http://www.fws.gov/southeast/es/baldeagle/> or contact the U.S. Fish and Wildlife Service (337-291-3100) for further assistance.

d. Within 1,500 feet of the Mississippi River and Tributaries levees centerline and/or 300 feet of the levee centerline or 250 feet from the visible levee or berm toe of a federal hurricane risk reduction project.

e. At or within one mile of a site listed or eligible to be listed on the national Register of Historic Places, within one-half mile of a known archaeological site, or within one-half mile of any known cultural resource site, without the written approval or waiver from the State Historic Preservation Officer or the appropriate authority.

f. Streams included in a state or federal system of scenic and natural waterways.

g. Natural or man-made waterways which are components of Corps of Engineers flood control Hurricane and Storm Damaged Risk Reduction System (HSDRRS), or navigation projects until reviewed by the appropriate elements of the New Orleans District.

h. Within any area leased by the Louisiana Department of Wildlife and Fisheries for harvesting oysters without the specific authorization of the leaseholder. Additionally, no work may be performed in public oyster grounds or seed beds.

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 ½- 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 ½- 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, gabions) 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 Eighth U.S. 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 Eighth Coast Guard District Waterways Management (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:

Martin S. Mayer
Chief, Regulatory Branch
for
Richard L. Hansen
Colonel, Corps of Engineers
District Engineer

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee _____

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

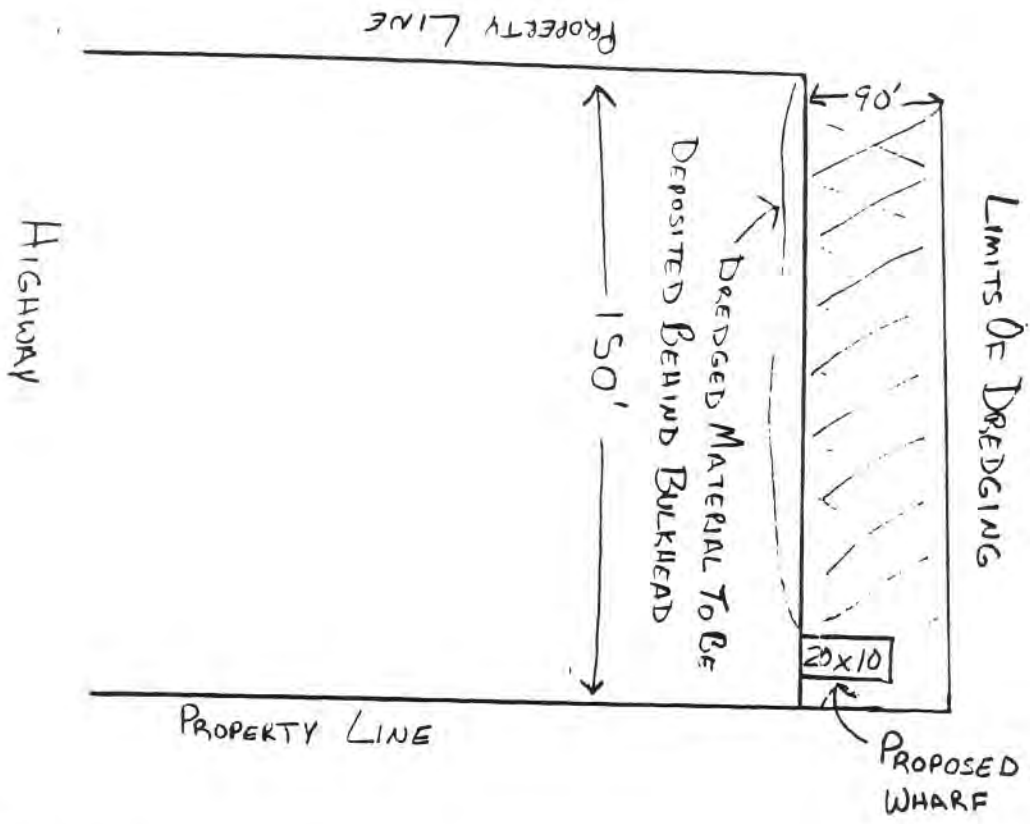
(DATE)

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)

BAYOU X



PLAN VIEW
SCALE 1" = 50'

CROSS SECTION
SCALE 1" = 10'

