

JOINT PUBLIC NOTICE

August 24, 2020

United States Army
Corps of Engineers
New Orleans District
Regulatory Branch
7400 Leake Avenue
New Orleans, Louisiana 70118

(504) 862-1280
Brandon.D.Gaspard@usace.army.mil
Project Manager: Brandon Gaspard
Permit Application Number: MVN-2020-00784-MG
(General Permit) GP-31

State of Louisiana
Department of Environmental Quality
Office of Environmental Services
ATTN: Water Quality Certifications
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

(225) 219-3003
Elizabeth.Hill@la.gov
Project Manager: Elizabeth Hill
WQC Application Number: WQC 200813-01

SPECIAL PUBLIC NOTICE

PROPOSED GENERAL PERMIT AUTHORIZING MINOR CONSTRUCTION ACTIVITIES FOR RESIDENTIAL PURPOSES AND THE ASSOCIATED DISCHARGE OF FILL MATERIAL INTO WATERS OF THE UNITED STATES WITHIN THE NEW ORLEANS DISTRICT

General Permits have proven 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 general permit is attached.

Interested parties are requested to review the enclosed general permit authorizing minor construction activities for residential purposes and the associated discharge of fill material into waters of the United States within the New Orleans District.

Specific legislation requiring Department of the Army permits for work of this nature are: [] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151: 33 USC 403); and/or [X] Section 404 of the Clean Water Act (86 Stat. 816: 33 USC 1344).

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 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. 95-217).

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 extend the general 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 factors 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, consideration 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 general permit extension. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to modify or not extend the general permit. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the 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.

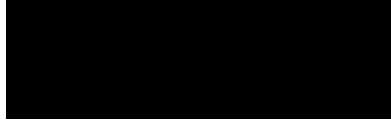
This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of n/a acres of EFH utilized by various life stages of red drum and penaeid shrimp. 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. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

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.



Martin S. Mayer
Chief, Regulatory Branch

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVE
NEW ORLEANS, LA 70118-3651

Operations Division
Regulatory Branch

SUBJECT: CEMVN-ODR (General Permit) GP-31

DEPARTMENT OF THE ARMY
GENERAL PERMIT

GENERAL PERMIT AUTHORIZING MINOR
CONSTRUCTION ACTIVITIES FOR RESIDENTIAL PURPOSES
AND THE ASSOCIATED DISCHARGE OF FILL MATERIAL
INTO WATERS OF THE UNITED STATES

AUTHORIZATION NO.: (General Permit) GP-31

EFFECTIVE DATE: 1 January 2021

EXPIRATION DATE: 1 January 2026

Under authorization granted by applicable sections of Parts 320 through 332 of Title 33, Code of Federal Regulations, and delegated authority from the Commander, U.S. Army Corps of Engineers, the District Engineer at New Orleans has determined that it is in the public interest to issue a general permit to authorize minor construction activities for residential purposes and the associated discharge of fill material into waters of the United occurring within the boundaries of the New Orleans District.

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

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

The work and activities specifically intended for authorization under this general permit are the construction of individual single-family homesites, residential subdivisions and multiple-unit residential complexes; associated drainage, roadway, sanitary, and utility infrastructure, and; typical amenities such as storage sheds, swimming pools, garages, driveways, and landscaping.

Under this general permit, when the construction of an individual single-family residence is being proposed for personal use/occupation by the applicant, the activity may not exceed an aggregate loss of 0.50 acre of jurisdictional wetlands. When the construction of multiple single-family residences (i.e., a subdivision) or a multiple-unit residential complex is being proposed for commercial sale to potential occupants, the activity may not exceed an aggregate loss of 3.0 acres of jurisdictional wetlands. Whenever any other nationwide or general permit is used in conjunction with this

general permit, the total acreage of jurisdictional wetland loss combined cannot exceed the appropriate threshold. In addition, any activity performed in conjunction with the proposed development that degrades existing jurisdictional project site wetlands without actually incurring a loss of waters of the U.S., such as the removal of native vegetation for aesthetic purposes, will be counted towards thresholds established for this general permit. Last, a determination will be made as to scope of the proposed activity's impact on jurisdiction of any adjacent wetlands on a case-by-case basis

Prior to written approval from the New Orleans District (MVN), each request for work covered by this general permit will be reviewed to determine impacts to the natural and human environment to determine if approval is not contrary to the public interest. A detailed justification of project need and project alternatives considered, including other potential project locations and project designs, supporting the applicant's view that the proposed activity represents the least environmentally damaging practicable alternative must be submitted with the application (see Section 3).

This general permit will authorize work in those areas which are located within the boundaries of the U.S. Army Engineer District, New Orleans, but outside the Louisiana Coastal Zone (LCZ), UNLESS the activity is within the LCZ but specifically or partially exempt from coastal use permitting as determined by the Louisiana Department of Natural Resources, Office of Coastal Management (OCM). The map attached to this permit shows the approximate boundaries of the District (attachment 1).

1. Inclusions: The following are examples of work that may be eligible under this permit:
 - a. Single-family residences proposed for individual personal use.
 - b. Residential subdivisions and multiple-unit residential complexes.
 - c. New homesites and appurtenances in an established residential subdivision. An established subdivision is defined as an area having a hard surface or aggregate road system, parish-approved drainage infrastructure and utilities, and an approved central sewerage system. The homesite and/or appurtenances must be the primary residence or in direct association with the primary residence of the permittee or a member of his/her immediate family.
 - d. Any residential subdivision proposing impacts to jurisdictional wetlands that comport to the threshold, described herein.
2. Exclusions: The following work will not be eligible under this general permit. Applications for this work will be processed in accordance with 33 CFR Part 325.

- a. Piecemeal development; the proposed activity must be a single and complete project. In addition, the use of this general permit will not be applicable to a "phased" development of a larger project.
- b. Work subject to authorization under Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403).
- c. Work within the banks of natural drains which include, but are not limited to, streams, sloughs, bayous, creeks, etc.
- d. Work within jurisdictional wetland areas that are prone to prolonged inundation (e.g., seasonally flooded bottomland hardwoods and cypress-tupelo swamp).
- e. This general permit will not authorize work within the following areas:
 - (1) Work authorized under General Permit-31 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: <https://www.fws.gov/migratorybirds/pdf/management/nationalbaldeaglenagementguidelines.pdf> or contact the U.S. Fish and Wildlife Service (337-291-3100) for further assistance.
 - (2) Within 1,000 feet of known bird nesting colonies or rookeries.
 - (3) No activity that is likely to adversely affect federally listed threatened or endangered species, or a species proposed for such designation, or that is likely to destroy or adversely modify the critical habitat of such species, is authorized under this General Permit.
 - (4) Within 1,500 feet a levee or 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.
 - (5) 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 (SHPO), Tribal Historic Preservation Officer (THPO) or the appropriate authority.
 - (6) Work within 300 feet of a state scenic stream without written approval or waiver from the Louisiana Department of Wildlife and Fisheries.

- (7) Work performed within an existing subdivision where the existing hard surface or aggregate road system, drainage infrastructure, utilities, etc., are in violation of Section 404 of the Clean Water Act (33 USC 1344).
3. Applications for approval for work to be performed under authority of this general permit must include the following (attachment 2):
 - a. Completed application form ENG 4345. Note: for those activities within the LCZ, the Joint Application form must be used, provided it includes OCM's exemption determination. If the proposed activity is not exempt, or is partially exempt by OCM, this GP may not be used, or is limited to the exempt portion of the project, respectively.
 - b. Vicinity Map – You may use an existing road map or U.S. Geological Survey topographical map. This map should include:
 - (1) Location of activity site (draw an arrow showing the exact location of the site on the map).
 - (2) Latitude, longitude, and/or section, township and range.
 - (3) Names, descriptions, and locations of landmarks.
 - (4) Name of and distance to nearest town, community or other identifying locations.
 - (5) Names or numbers of all roads in the vicinity of the site.
 - (6) North arrow.
 - c. The proposed residential subdivision lot layout (if in an existing subdivision then the location of the lot and other lots which have been developed), a delineation of wetlands/waters of the U.S., and property boundaries.
 - d. Plan view and cross section (samples attached) of the proposed work which include:
 - (1) Principle dimensions of the activity
 - (2) Number of cubic yards and source of fill material
 - e. A Needs and Alternatives Analysis.
 - f. A proposed compensatory mitigation plan for unavoidable wetland impacts. On a case-by-case basis, appropriate and practicable compensatory mitigation will be considered for unavoidable adverse impacts which remain after all

appropriate and practicable avoidance and/or minimization has been attained. Compensation for unavoidable impacts must be commensurate with the wetland loss. Mitigation requirements will be determined by CEMVN and be consistent with the Compensatory Mitigation Rule.

4. No work may be performed under this general permit unless and until:
 - a. The New Orleans District has reviewed the application and has issued a written approval and the permittee has fulfilled all compensatory mitigation requirements (if applicable).
 - b. All required local, state and other federal permits, licenses, authorizations, and certifications are obtained. This includes, but is not limited to:
 - (1) A water quality certification or waiver from the Louisiana Department of Environmental Quality, Office of Environmental Services;
 - (2) A drainage impact analysis certified by a professional engineer and approved by the appropriate local authority, as required, and;
 - (3) A Parish or State-approved individual or central sewage treatment system, as appropriate for the activity proposed under this General Permit.

All work authorized by this general permit must be performed in accordance with the applicable standard conditions of ENG Form 1721, Department of the Army Permit (attachment 3), and the following special conditions:

- a. The area extent of the clearing, grading, and/or otherwise filling will be limited to the minimum amount necessary to include the house, garage, driveway, sewage treatment, utilities, etc. A maximum of 0.50 acre for private single-family residences, or 3.0 acres for single-family or multiple-unit residential subdivisions, will be allowed for clearing, grading, and/or otherwise filling of the lot. The remaining wetland portions of the property will remain in their natural state.
- b. All projects must comply with the Section 404(b)(1) Guidelines (49 CFR 230.10). Appropriate and practicable steps must be taken to minimize potential adverse effects of the discharge on the aquatic ecosystem. Whenever practicable, nonwetland disposal sites must be used.
- c. The permittee shall provide your project manager with this office a **Notification of Completion** within five days of project construction being finalized. Notification shall reference your subject MVN permit #, and may be submitted via email or hard copy mail to: U.S. Army Corps of Engineers, New Orleans District, CEMVN-ODR-W, 7400 Leake Ave., New Orleans, LA 70118-3651.

- d. 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 activities with local floodplain ordinances, regulations or permits.
- e. The permittee is responsible for ensuring that all contractors and/or workers associated with project construction and implementation, are equally aware of the authorized plans, conditions, and/or restrictions associated with this approval.
- f. All work shall be done in accordance with the approved plans and confined to the permitted work area(s) represented within the attached drawings. If the project requires modifications to the authorized plan, the permittee shall contact this office to obtain a permit amendment and/or review and decision on the plans, prior to commencement of those alterations.
- g. The permittee shall properly install adequate erosion/siltation control measures around construction areas that require land based earthwork (i.e. excavation and/or deposition of fill materials, land contouring, machinery rutting, fill maneuvering and redistribution, etc.), to aid in preventing project related sediments, debris and other pollutants from entering adjacent wetlands or waters. Acceptable measures include but are not limited to the proper use and positioning of temporary silt fences, straw bales, fiber/core logs, wooden barriers, seeding or sodding of exposed soils, or other approved EPA construction site storm-water runoff control and best management practices. Control techniques shall be installed prior to the commencement of earthwork activities and maintained until the project is complete and/or the subject areas are stabilized.
- h. This General Permit does not authorize work that could adversely affect adjacent property.
- i. Permittees must evaluate the effect that the proposed work would have on historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to initiation of work. Historic properties include prehistoric and historic archaeological sites, and areas or structures of cultural interest that occur in the permit area. If a known historic property would be encountered, the permittee shall notify CEMVN and shall not conduct any work in the permit area that would affect the property until the requirements of 33 CFR Part 325, Appendix C, and 36 CFR Part 800 have been satisfied. If a previously unknown historic property is encountered during work authorized by this General Permit, the permittee shall immediately notify the CEMVN and avoid further impact to the site until the USACE has verified that the requirements of 33 CFR Part 325, Appendix C, and 36 CFR Part 800 have been satisfied

- j. The District Commander retains discretionary authority to require applicants to obtain an individual permit when determined that the public interest will best be served by doing so.
- k. The District Commander may include additional conditions to this general permit at any time and as necessary to protect the public interest.
- l. This general permit may be suspended in whole or part and/or revoked if the District Commander determines such action is necessary to protect the public interest.
- m. Additional public notice will be given to advise the interested public of major revisions to the general permit or of its suspension or revocation.
- n. That all activities identified and authorized herein shall be consistent with the terms and conditions of this general permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this general permit which may result in the modification, suspension, or revocation of the authorization granted to the permittee, in whole or in part, as set forth more specifically in General Condition t., and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this general permit has been previously modified, suspended, or revoked in whole or in part.
- o. That all activities authorized herein shall be at all times consistent with applicable water quality standards and best management practices established pursuant to the Clean Water Act of 1972 (PL 92-500: 86 Stat. 816) and pursuant to applicable state and local laws.
- p. That the discharge will not affect a threatened or endangered species as identified under the Endangered Species Act, or adversely impact critical habitat of such species.
- q. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, special aquatic sites, and natural environmental values.
- r. That 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 general permit is in accordance with the terms and conditions prescribed herein.

- s. That the general permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that 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 approval required by law for the activity authorized herein.
- t. That any individual authorization granted under this general permit may be either modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this general permit or that such action would otherwise be in the public interest.
- u. That in issuing authorization under this general 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 general permit authorization may be modified, suspended, or revoked, in whole or in part.
- v. That any modification, suspension or revocation of this general permit or any individual authorization granted under this general permit will not be the basis for any claim for damages against the United States.
- w. That this general permit cannot be used for piecemeal fill activities or other piecemeal work, nor is this general permit valid for any activity that is part of an overall project for which the Corps has determined that an individual permit is required.
- x. That wetlands that are not part of the project site but that are disturbed during construction, including the temporary crossing of jurisdictional wetland areas, will be restored to their pre-project elevations and conditions, including replanting where needed.
- y. That misrepresentation of the proposed project or falsification of facts may be cause to exclude the project from further general proceedings. If the misrepresentation or falsification was intentional, the applicant shall forfeit the right to conduct work at the proposed project site pursuant to this general permit.
- z. That if the project includes deposits of fill materials, only clean material which is free of organic matter, wastes, metal products, chemical pollutants, unsightly debris, etc., may be used as fill.
- aa. Individual approvals granted under this general permit allows 5 years from the date of approval letter to complete the project.

All references to "Permittee" in ENG Form 1721 shall, for purposes of this general permit, be understood to refer to the person, family, agency or group performing work authorized by this permit.

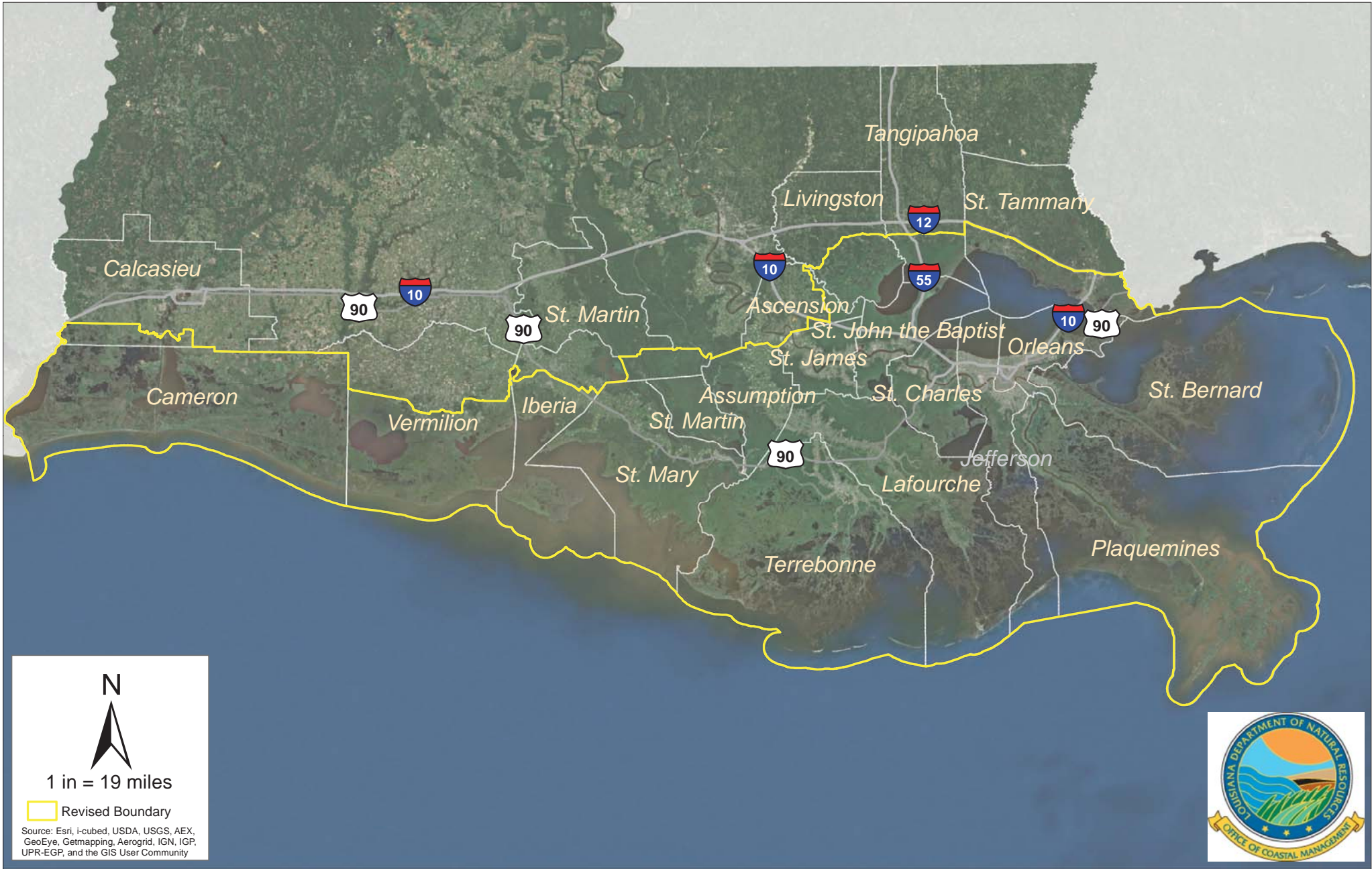
BY THE AUTHORITY OF THE SECRETARY OF THE ARMY:

Martin S. Mayer
Chief, Regulatory Branch

Attachments

1. District Boundary Map and
Coastal Zone Boundary Map
2. Sample Drawings





N



1 in = 19 miles

Revised Boundary

Source: Esri, i-cubed, USDA, USGS, AEX, GeoEye, Getmapping, Aerogrid, IGN, IGP, UPR-EGP, and the GIS User Community

