

DEPARTMENT OF THE ARMY PERMIT

Permittee Texas Parks and Wildlife Department

Permit No. 19942(02)

Issuing Office Galveston District

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: To grant a 10-year extension of time for General Permit (GP) 19942(01) which authorizes the underwater placement of obsolete oil and gas structures to create artificial reef sites within 316 designated Outer Continental Shelf (OCS) Lease Blocks within the Gulf of Mexico (GOM) High Island Area, South Addition and East Addition, South Extension. This extension of time also authorizes a 10-year construction period for individual reef sites issued under the new GP 19942(02) and provides a 10-year extension of time to complete reef construction for all of the 21 previous individual reef site authorizations under GP 19942(01). The previously authorized individual reef sites include GP authorizations 19942(01) 003-006, 008-009, 011-014, 016-020, 022-025, 027-028. The project will be conducted in accordance with the attached plans, in 3 sheets, and conditions, in 2 sheets.

Project Location: Offshore GOM waters, within 316 designated OCS Lease Blocks, within High Island Area, South Addition and East Addition, South Extension. This area includes blocks HI-A268 through HI-A403 and HI-A417 through HI-A596.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2015. 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:

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.

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).
  - ( ) 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)

TEXAS PARKS AND WILDLIFE DEPARTMENT

9/28/05  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)

FRED L. ANTHAMATTEN  
CHIEF, POLICY ANALYSIS SECTION  
FOR COLONEL STEVEN P. HAUSTEIN

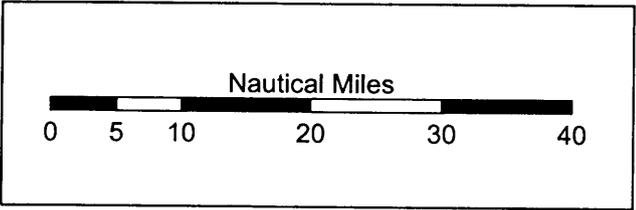
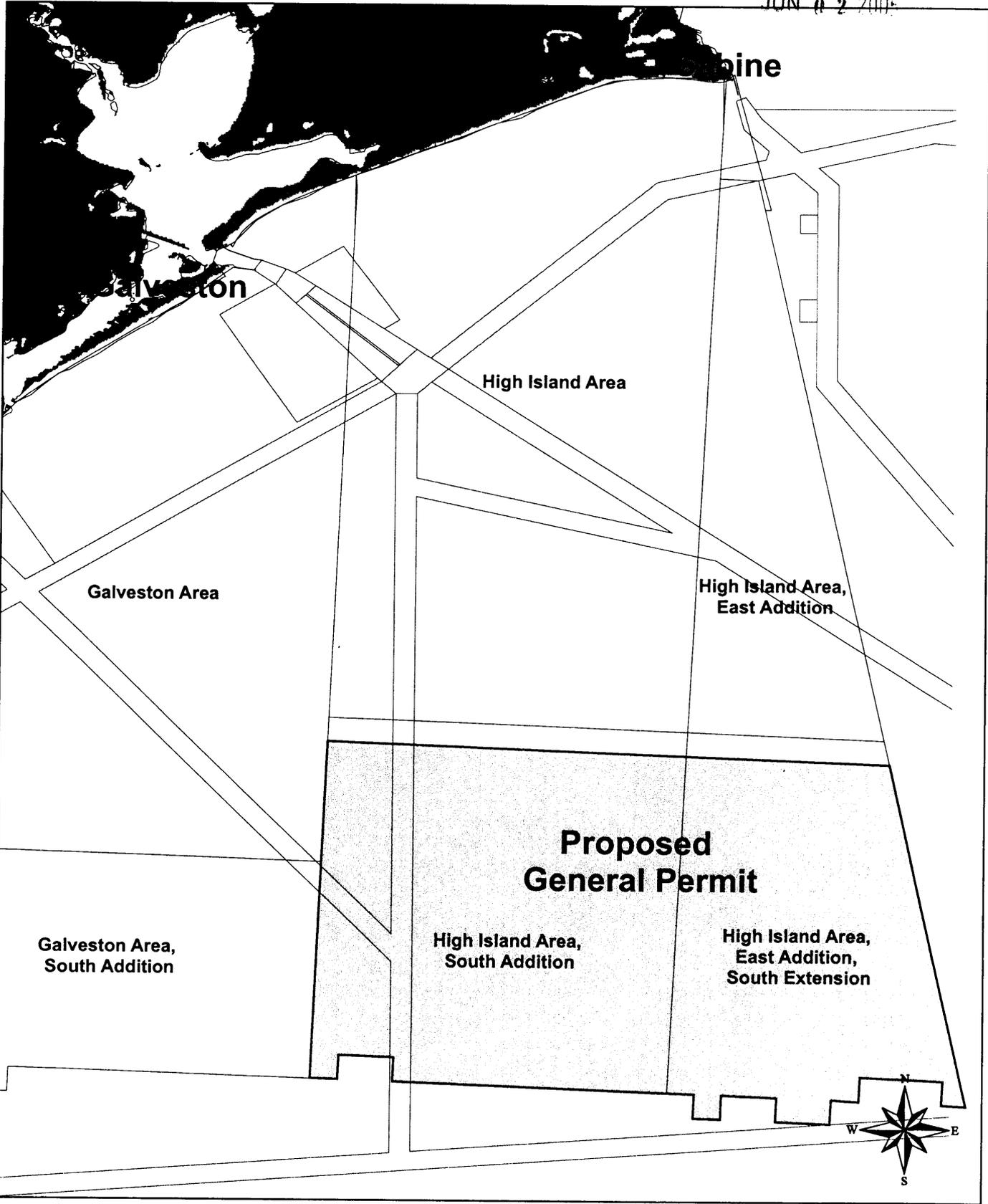
10/5/05  
(DATE)

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.

\_\_\_\_\_  
(TRANSFEE)

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

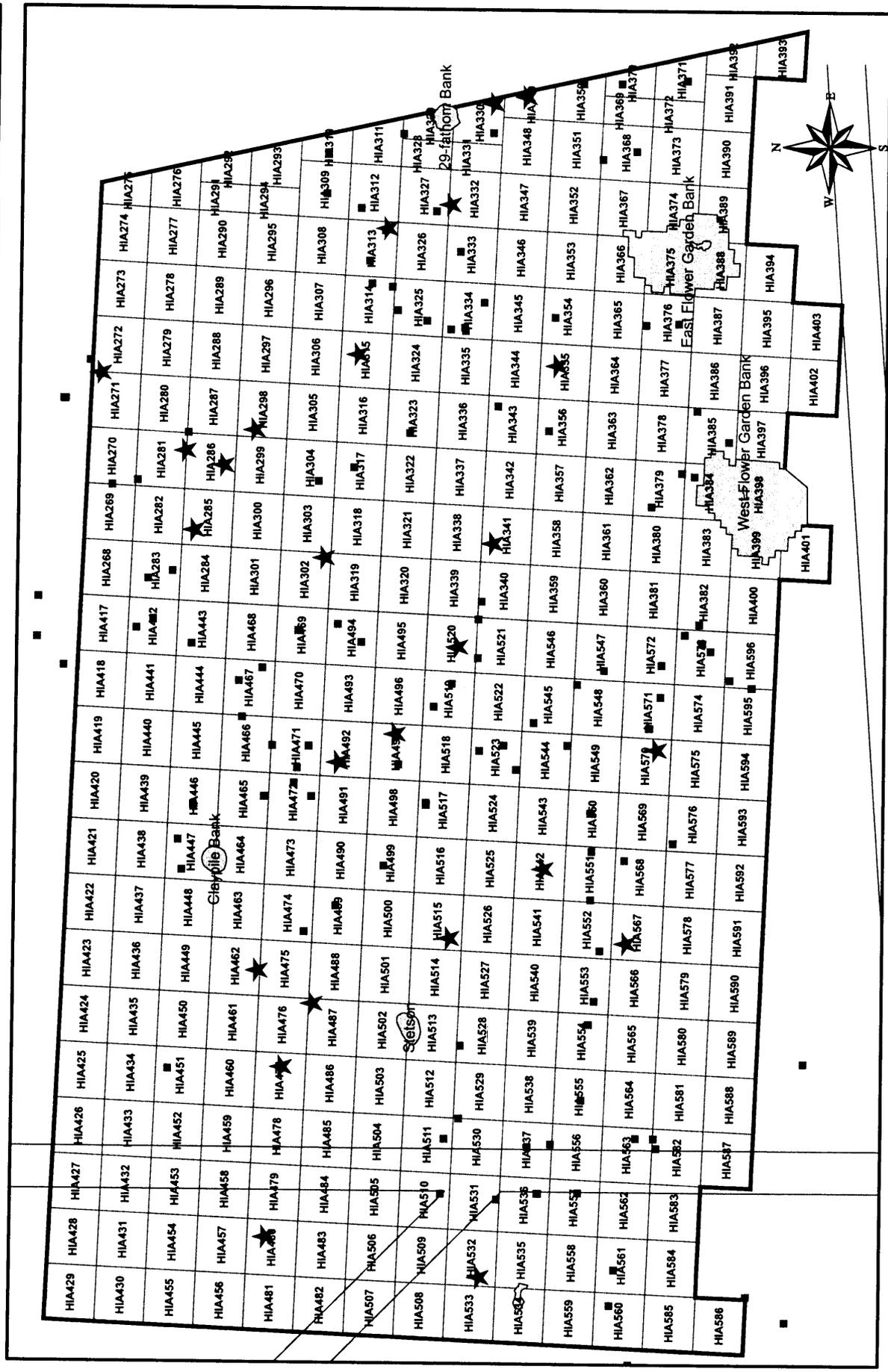
JUN 02 2005



Proposed Artificial Reef  
 General Permit #19942(02)  
 Vicinity Map  
 1 of 3

**TEXAS**  
**PARKS &**  
**WILDLIFE**

# General Permit Area



Proposed Artificial Reef  
General Permit #19942(02)  
Area Map  
2 of 3

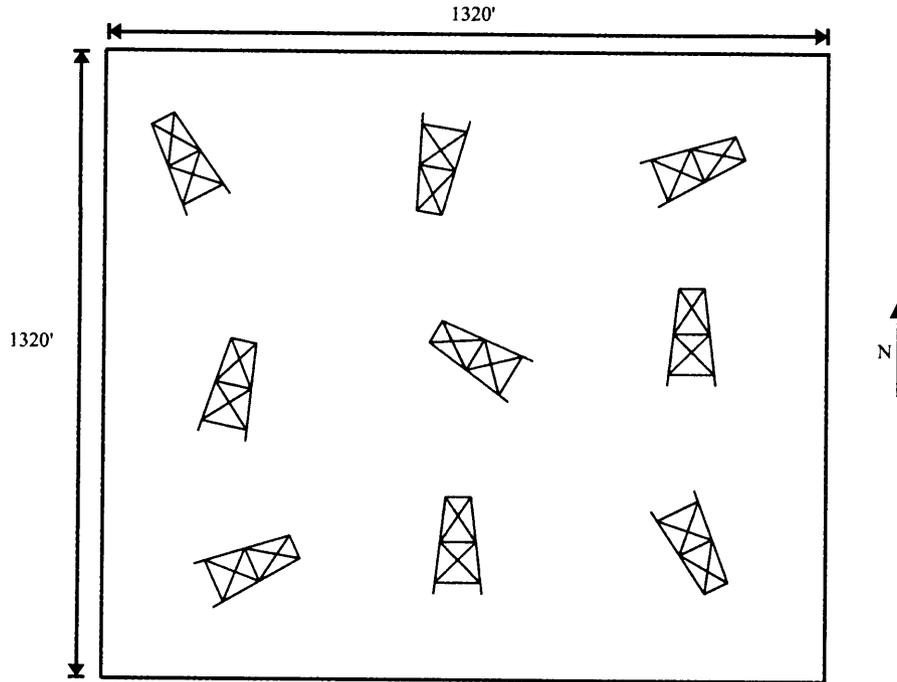


### Legend

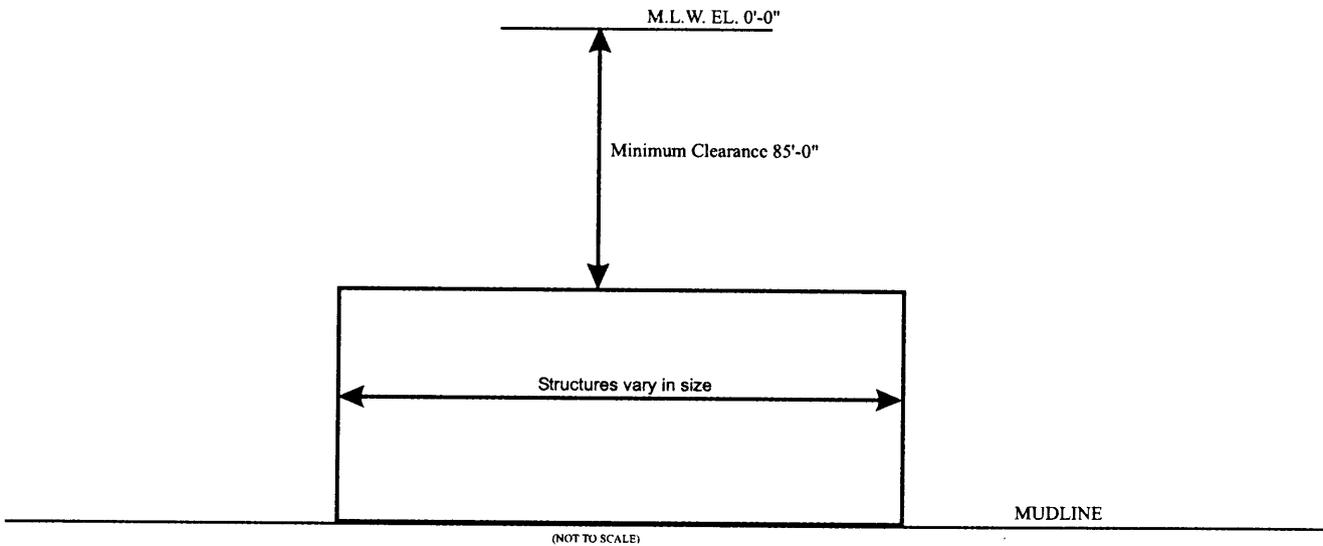
- ★ Artificial Reefs
- Active Platforms
- ☞ Natural Banks
- Fairways

JUN 02 2005

TYPICAL DISTRIBUTION OF REEF MATERIALS  
WITHIN PROPOSED ARTIFICIAL REEF CONSTRUCTION SITE



MINIMUM NAVIGATIONAL CLEARANCE ABOVE TYPICAL  
MATERIAL PLACEMENT



Proposed Artificial Reef  
General Permit 19942(02)  
General Reef Design  
Figure 3 of 3



**SPECIAL CONDITIONS FOR GENERAL PERMIT 19942(02) FOR ARTIFICIAL REEFS PLACED IN HIGH ISLAND. SPONSOR, TEXAS PARKS AND WILDLIFE DEPARTMENT**

March 19, 1999 (revised April 15, 1999)

1. No sites will be placed within 3 statute miles of pre-existing artificial reef sites. One exception to this condition may be artificial reefs that are privately owned due to "blow-outs", which may not allow these structures to be accepted into the Artificial Reef Program (i.e. Topper III, owned by Mobil, COE permit #11860 in High Island A-471).
2. No sites shall be placed within one half nautical mile from any designated natural reef sites including Claypile, Stetson, and East and West Flower Garden Banks.
3. No sites shall be placed within 2 nautical miles of the Safety Fairways.
4. No sites shall be placed within 1000-ft of active or out of service pipelines. No reef materials or anchors associated with reef construction activities shall be placed on top of active, out of service, or abandoned lines.
5. All material(s) to be placed on the reef(s) is(are) to be selected to avoid/minimize movement of reef materials caused by sea conditions or currents and is(are) to be clean and free of asphalt, creosote, petroleum, other hydrocarbons, toxic residues, loose, free floating material, or other deleterious substances. Such materials may be inspected by the Corps or their designee prior to placement.
6. The permittee shall maintain a minimum vertical clearance above the reef that is no less than that shown in the drawings attached to, and made a part of the authorization granted. No material shall be placed outside the bounds of the designated reef areas.
7. No artificial reefs shall be authorized by this permit which would, in the opinion of the Corps of Engineers, constitute a hazard to/from shipping interests, general navigation, and/or military restricted zones.
8. No authorization shall be given until all necessary local, state, or Federal agency authorizations are granted.
9. Marking of the reef, when applicable, shall be in accordance with the U.S. Coast Guard requirements.
10. No authorization is granted by this permit for the construction of artificial reefs on significant submerged beds of sea grasses, macro-algae, coral reefs, live bottom (areas supporting dense growth of sponges, sea fans, soft corals, and other sessile micro- invertebrates generally associated with rock outcrops), or live oyster reefs.
11. No work shall be performed until notification is given to the owner (lease holder) or operator of any marked utilities or structures in the block or adjacent blocks where the reef is to be located.
12. If the issuance of authorization under this permit is found or suspected of affecting the continued existence of an endangered species, the activity will not be authorized by this general permit, and an individual permit will be required.
13. No fish attractors shall be authorized by this permit to be placed at artificial reef sites, which are authorized under the General Permit to the TPWD, in accordance to the guidelines stated in the 1990 Texas Artificial Reef Plan.

JUN 02 2005

**Requests for Authorization Under the General Permit:** In order to be authorized by this General Permit, the Texas Parks and Wildlife Department (TPWD) is required to submit to the District Engineer, in writing, the following information:

- a. State the number of the general permit under which the work is to be conducted.
- b. Statement that the work will be conducted in compliance with terms and conditions of this General Permit.
- c. Location map showing the proposed reef site.
- d. Location coordinates using the Texas State Plane Coordinate System for horizontal control and the mean low tide for vertical control shall be depicted in the plans.
- e. Name, address, and telephone number of persons applying for authorization.

Upon receipt of this information, the District Engineer will advise TPWD in writing that the work is authorized under the General Permit, or will request additional information, if needed, or will advise that the proposed activity will require a separate permit.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUISITE FOR APPEAL**

Applicant: Texas Parks and Wildlife Department		File Number: 19942(02)	Date: 9/20/05
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved jurisdictional determination (JD) or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Bryan Herczeg, Project Manager  
CESWG-PE-RB, P.O. Box 1229  
Galveston, Texas 77553-1229  
Telephone: 409-766-6389; FAX: 409-766-6301

If you only have questions regarding the appeal process you may also contact:

James E. Gilmore, Appeal Review Officer  
CESWD-CMO-E, 1100 Commerce Street, Room 8E9  
Dallas, Texas 75242-0216  
Telephone: 496-487-7061; FAX: 469-487-7190  
Email: James.E.Gilmore@usace.army.mil

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or authorized agent.

Date:

Telephone number: