

DEPARTMENT OF THE ARMY PERMIT

Permittee General Public

Permit No. SWG-1997-02817

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: The construction of boat slips in man-made canals.

Project Location: In existing, manmade upland canals located within the Galveston District.

Permit Conditions:

General Conditions:

1. This General Permit will expire on 31 December 2014 unless modified, extended or revoked.
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:

- a. That the work herein authorized includes the construction of boat slips adjacent to existing manmade upland canals. Upland canals are in areas completely adjacent to upland property.
- b. That no work shall be performed until the applicant submits satisfactory plans for the proposed activity and has received written authorization by the District Engineer. The project plans should clearly indicate control measures for minimizing turbidity of the canal waters and minimizing water run off from the construction site and areas devegetated during the construction activities.
- c. Hydraulic dredging is not authorized by this General Permit
- d. That the maximum area of boat slips covered by this General Permit is 900 square feet. The amount of dredged material shall not exceed 200 cubic yards for new work per project per year. Depth of the dredged area shall not exceed the depth of the adjoining parent canal or 6feet below mean sea level, whichever is least.
- e. That the dredged material shall not be placed in adjacent waters or wetlands. Wetlands are those areas that are periodically inundated and that are normally characterized by the prevalence of salt, brackish or fresh water vegetation capable of growth and reproduction or vegetation that requires saturated soil conditions for growth and reproduction. Generally included are inland and coastal shallows, marshes, mud flats, estuaries, swamps, and similar areas in coastal and inland navigable waters characterized by a dominance of aquatic vegetation.
- f. That the dredged material shall be deposited and confined for the life of the project in an upland area such that sediment will not reenter the water or wetlands and shall not interfere with natural drainage.
- g. That the dimensions of boatslips shall not exceed 50 feet in any direction.
- h. That new construction of canals and removal of plugs are specifically excluded from this authorization.
- i. That dredging of vegetated wetland areas (as defined in e above) will not be authorized under this General Permit.
- j. That no work shall be performed until 30 days after the notification of the owner or operator of any marked utilities in the area of the work.
1. That conformance with descriptions and quantities contained herein does not necessarily guarantee authorization under the General Permit
- m. That excavation of boatslips will be conducted by maintaining an earthen plug between slip and canal waters. When the boatslip excavation is complete, the earthen plug may be removed.
- o. That no boatslips shall be constructed that interfere with any canal system designs previously installed to control runoff, improve circulation or otherwise maintain water quality.
- p. That the work will not adversely affect Federally listed proposed, threatened or endangered species or adversely modify their critical habitat as defined by the Endangered Species Act of 1973, as amended, unless the discharge is specifically authorized by the District Engineer. Prior to authorizing a discharge which may affect a listed species or its critical habitat, the District Engineer will consult or confer with the U.S. Fish and wildlife Service or the National Marine Fisheries Service, as appropriate.
- q. Any work within 1,000 feet of a known wading bird or seabird rookery shall be restricted to the non-nesting period of the species comprising that rookery.
- r. Individual actions under this General Permit shall be reviewed for potential impacts to cultural resources by Corps of Engineers Staff Archeologists. If sites listed on or eligible for the National Register of Historic Places exist within the affected area, coordination with the State Historic Preservation Officer and the Advisory Council on Historic Preservation will take place in accordance with 36 CFR 800 And 36 CFR 325, Appendix C. Activities authorized under this General Permit will not affect any properties either listed in or eligible for listing in the National Register of Historic Places.
- s. 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 he opinion of the Secretary of the Anny 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.
- t. That if the work authorized by a specific site approval is not started within 1 year, or if it is not completed within 2 years from its approval date, the authorization, if not previously revoked or specifically extended, shall automatically expire.

u. That for the project to satisfy the Texas Commission on Environmental Quality's water quality certification requirements, the applicant shall agree to use the Best Management Practices (BMPs) for Tier I projects and shall submit a signed statement that the applicable BMPs will be used. If an applicant fails to implement these provisions and BMPs, the permit is subject to enforcement. Applicants who do not wish to incorporate all the provisions of the checklist into their project or desire to use alternatives are not authorized under this General Permit. Descriptions of the BMPs may be obtained from the U.S. Army Corps of Engineers, Galveston District web site at <http://www.swg.usace.army.mil/reg/> or the TCEQ web site at http://www.tceq.state.tx.us/permitting/water_quality/wq_assessment/401certification/401certification_tier1.html, or by calling TCEQ at (512) 239-5366.

Procedures for Obtaining Authorization: Request for authorization must be sent to:
U.S. Army Corps of Engineer, Galveston District, Regulatory Branch, P.O. Box 1229, Galveston, Texas 77553-1229

All applications shall notify the Corps prior to initiation of work in waters of the United States, including wetlands. The notification shall include:

- (a) A completed and signed DA application (Form ENG 4345) stating the number of the regional General Permit under which the work is to be conducted.
- (b) A copy of all DA authorizations previously issued for the work area.
- (c) A vicinity map, plan view, typical cross-section, and a description of the proposed method of construction. Drawings must be 8.5 by 11 inches and reproducible and shall include:
 - 1) A vicinity map with the precise location of the project and the disposal site so that its geographic coordinates can be determined.
 - 2) A top view (plan view) drawing showing the area to be excavated, the location of any trenches, cofferdams, equipment ramps, any bank stabilization, and their relative location to the waters of the United States, including wetland and oyster reefs.
 - 3) A cross-section drawing showing the area to be excavated, the cubic yards of material to be removed, method of removal, location of bank stabilization and any other relevant information and data required in the Special Conditions.
- (d) A statement that the work will be conducted in compliance with the terms and conditions of this general permit.
- (e) A statement of estimated start and completion dates.

Upon receipt of this information, the District Engineer will advise the inquiring party 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.

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)
PERMITEE

 (DATE)

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

 (DISTRICT ENGINEER)
CASEY CUTLER
CHIEF, POLICY ANALYSIS SECTION
FOR COLONEL DAVID C. WESTON

 (DATE)