

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT

Permittee General Public

Regional General Permit No. SWG-2001-00150

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 structure 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: Structures, work, and fill authorized by this Regional General Permit shall be limited to construction of temporary artificial wave barriers to protect transplanted vegetation behind the barriers until it is established, for erosion control measures. The barriers will be temporary in nature and constructed out of snow fencing, parachute netting, or other similar material.

Project Location: In all navigable waters of the United States within the Galveston District, excluding waters in Louisiana.

Regional General Permit Conditions:

1. This Regional General Permit will expire on December 31, 2016, unless modified, extended, or revoked.
2. The time limit for completing the work authorized herein ends on December 31, 2016 or, if the Department of the Army authorization is within two years of the expiration of this Regional General Permit, within 2 years of Department of the Army approval.
3. The permittee must maintain the structure authorized by this permit in good condition and in conformance with the terms and conditions of this permit. The permittee is not relieved of this requirement if the permittee abandons the authorized structure unless the permittee makes a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized structure for its authorized purpose and use; the permittee shall remove all components of the remaining structure and restore the area to pre-project conditions.
4. When the structures or work authorized by this permit are still in existence at the time you sell the property associated with this authorization, you must obtain and submit to the Corps of Engineers a signed statement from the new owner(s) stating that they agree that the terms and conditions of this permit will continue to be binding on the new owner(s) of the property.
5. No structure that may affect historic properties listed or eligible for listing in the National Register of Historic Places is authorized until the Corps of Engineers and applicant have complied with the provisions of Section 106 of the National Historic Preservation Act.

6. Individual actions under this Regional General Permit shall be reviewed for potential impacts to historic properties. If sites listed on or eligible for the National Register of Historic Places exist within the permit area, coordination with the State Historic Preservation Officer and Advisory Council on Historic Preservation will take place in accordance with 33 C.F.R. 325, Appendix C.
7. If any previously unknown historic or archeological remains are discovered while constructing the structure authorized by this permit, the permittee must immediately stop work and 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.
8. No structure will be authorized that is likely to jeopardize the continued existence of a threatened or endangered species or which is likely to destroy or adversely modify the critical habitat of such species as identified under the federal Endangered Species Act.
9. For activities where the District Engineer determines that more than minimal impacts may occur as a result of the proposed structure or work, a Department of the Army standard permit will be required. This Regional General Permit does not apply to work that may impact a Federal enforcement action or to work where construction is initiated prior to satisfying all the terms and conditions of this Regional General Permit.
10. The use of the permitted structure must not interfere with the public's right of free navigation on all waters of the United States.
11. The permittee must allow representatives from this office to inspect the authorized structure at any time the Corps of Engineers deems necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this Regional General Permit.
12. This Regional General Permit will not be valid without all other state, local, or regional authorizations required by law.
13. 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.
14. All applicants shall notify the Corps of Engineers prior to initiation of work in waters of the United States, including wetlands. Upon receipt of the notification from the applicant, the District Engineer will advise the inquiring party in writing that the work is authorized under this Regional General Permit, or will request additional information if needed, or will advise that the proposed activity will require review under a Standard Individual Permit. The notification from the applicant shall include:
 - a. A statement of the number of the Regional General Permit under which the work is proposed to be conducted.

- b. A statement that the work will be conducted in compliance with the terms and conditions of this Regional General Permit.
 - c. A completed and signed Application for Department of the Army Permit (Form ENG 4345).
 - d. A copy of all Department of the Army authorizations previously issued for the work area.
 - e. The name (Genus and species) of the vegetation to be transplanted and the location and description of the borrow areas from which the transplants will be harvested.
 - f. A description of the proposed method of artificial wave barrier construction and the estimated starting and completion dates of construction.
 - g. A vicinity map, plan view, and typical cross section view. Drawings shall include:
 - i. A vicinity map with the precise location of the project marked so that its geographic coordinates can be determined.
 - ii. A plan view (top view) drawing showing the property with the name of its owner(s), the waterfront width of the upland property, the length and width of all proposed artificial wave barriers, and the relationship of artificial wave barriers to waterfront property lines and to the centerline of a road or other fixed reference point.
 - iii. Plan view and cross-section drawings depicting the distance the proposed structure will extend into the water body as measured from the Mean High Water (MHW) line in tidal areas and the Ordinary High Water (OHW) mark in non-tidal areas.
 - iv. The distance from the shore to the top edge cut of any navigational channel in the immediate project vicinity.
 - v. Mapped location of any aquatic resources (i.e. oyster reefs, sea grass, marsh or mangrove habitat) located within 50 feet of any portion of the proposed project.
15. The proposed structure and work must be part of a single and complete project.
 16. The minimum clearance between any structure and the near bottom edge of a federal project channel will not be less than that prescribed in the authorizing federal project document.
 17. No work shall be performed until 30 days after notification of the owner or operator of any marked utilities in the project area.
 18. If the display lights and signals on any structure are not otherwise provided for by law, such lights and signals, as prescribed by the U.S. Coast Guard, shall be installed and maintained by and at the expense of the permittee. In addition, no bright lights that may be erected on the permitted structure shall be directed toward a navigable waterway in a manner that could hinder nighttime users of this waterway.
 19. Projects located adjacent to a Federal Channel will be exposed to both private and commercial vessel traffic. By accepting this permit the permittee acknowledges and agrees that the Government will not be held responsible for personal injury or other damages caused to structures or any personal or real property located within the Federal Maintenance Right-of-Way. Potential damages include, but are not limited to: wakes, undercutting, erosion, barge/vessel/dredge damage, vessel collisions, or wave action.
 20. Existing projects proposing modifications that continue to meet the terms and conditions of the Regional General Permit may be modified by this Regional General Permit.
 21. No dredging, including prop washing, is authorized by this Regional General Permit.
 22. Structures shall not be constructed over existing oyster reefs. If oyster reefs occur within 50 feet of any portion of the proposed structure, they shall be temporarily marked to help avoid any construction related impacts from occurring to the reefs. Oyster reefs are identified as a special aquatic site in 40 CFR 230.44

and may be delineated by identifying an oyster reef as a natural or artificial formation that is composed of oyster shell, live oysters, and other living or dead organisms; discrete, contiguous, and clearly distinguishable from scattered oyster shell or oysters; and is located in an intertidal or subtidal area.

23. The activity shall not occur in a component of the National Natural and Scenic River System, a National Inventory River, a component of the State Natural and Scenic River System, a State Game Management Area, or a National Wildlife Refuge without the appropriate Federal or state authorization and written approval.
24. All construction activities shall be performed in a manner that shall minimize increased turbidity of the water in the work area and otherwise avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons.
25. The activity shall not be located in the proximity of a public water supply intake, a National Fish Hatchery intake, or a State Fish Hatchery intake.
26. The activity shall not occur in areas of concentrated shellfish production.
27. The placement of trash, tires, automobile bodies, scrap metal, riprap, or corrosive contaminated or polluted materials in waters of the United States is not authorized by the Regional General Permit.
28. The applicant shall contact the Texas General Land Office at Austin or their field offices at Aransas Pass or La Porte to obtain any necessary State Land Easements for the proposed work.
29. Construction of artificial wave barriers shall not be conducted so as to interfere with navigation.
30. Should the artificial wave barrier no longer be required to protect the transplanted vegetation, the permittee shall remove the structure.
31. The permittee must obtain all State of Texas related permits for the transplanting of vegetation prior to starting any work in navigable waters of the United States as related to this authorization.

Further Information:

1. Congressional Authorities: You have been authorized to construct the structure 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 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:

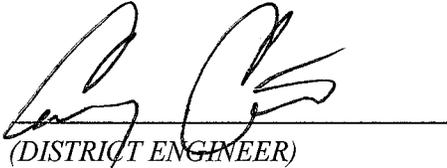
a. Failure to comply with the terms and conditions of this permit.

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. Condition 2 establishes a time limit for the completion of construction of the structure authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized structure 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.

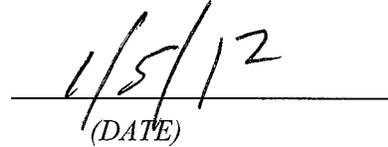


(DISTRICT ENGINEER)

CASEY CUTLER

Chief, Policy Analysis Section

FOR COLONEL CHRISTOPHER W. SALLESE



(DATE)