DEPARTMENT OF THE ARMY REGIONAL AND PROGRAMATIC GENERAL PERMIT

Permittee: General Public

Regional General Permit No.: SWG-2002-02904

Issuing Office: Galveston District

Project Description: Structures and work authorized by this General Permit (GP) shall be limited to pile- supported, single-family, multi-family, and single piers used at lodging facilities. Authorized structures associated with piers shall include boat mooring facilities, hoists and normal appurtenances such as, stairways, fish-cleaning tables, and walkways.

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

Regional and Programmatic General Permit Conditions:

1. This General Permit will expire on December 31, 2020, unless modified, extended, or revoked.

2. The time limit for completing the work authorized herein ends on December 31, 2020 or, if the Department of the Army authorization is within six months of the expiration of this GP, within 1 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 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 and applicant has complied with the provisions of Section 106 of the National Historic Preservation Act.

6. 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. The Corps 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.

7. 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 (ESA). Furthermore, no structure that may affect federally listed threatened or endangered species shall be authorized until the Corps and the applicant have complied with the provisions of Section 7 of the ESA. Specific Guidelines to ensure compliance with ESA requirements include the following:
    a. For information on Endangered Species Act, applicants will reference the U.S. Fish and Wildlife's *Information, Planning, and Conservation* (IPaC) decision support system at http://ecos.fws.gov/ipac/.
    b. Documents provided by IPaC specific to the project site must be submitted with the application.
    c. All structures and/or work must maintain a distance of 150 feet from federally designated critical habitat.
    d. Construction, installation, and maintenance are prohibited in sea turtle nesting habitat during the sea turtle nesting period from March 15th to September 30th.

    e. All proposed structures located more than 0.5 miles from the nearest structure in portions of Aransas, Copano, St. Charles, Mesquite, San Antonio, Espiritu Santo & Matagorda Bays or any secondary or tertiary bay of these systems must include the following;
        i. Coordination with the U.S. Fish and Wildlife Service Corpus Christi Ecological Field Office must be completed prior to application to consider potential impacts to the federally listed, endangered whooping cranes (*Grus americana*).
        ii. Construction, installation, and maintenance are prohibited from October 15th to April 15th to protect whooping cranes which winter in the Aransas National Wildlife Refuge area.
        iii. All permanent structures in whooping crane habitat areas must be no greater than 15 feet in height above mean sea level.
    f. Applicants seeking authorization for activities that cannot comply with these conditions may apply for a standard permit from the Corps to assure compliance with the provisions of Section 7 of the ESA.

8. 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 GP 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 GP.

9. The use of the permitted structure must not interfere with the public's right of free navigation on all waters of the United States. Structures constructed on canals or adjacent to channels must not extend more than 25 percent of the waterway width or may not extend beyond neighboring existing structures, whichever is less.

10. The permittee must allow representatives from this office to inspect the authorized structure at any time the Corps deems necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of this GP.

11. This GP will not be valid without all other state, local, or regional authorizations required by law.

12. 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.

13. All applicants 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).
    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 shall include:
        i. A vicinity map with the precise location of the project so that its geographic coordinates can be determined.
        ii. A top view (plan view) drawing showing the property, its owner(s), length and width dimensions of all structures and their relationship to adjacent property lines and existing structures and the distance from the end of the structure(s) to the centerline of a road or other fixed reference point.
        iii. Top view and cross-section drawings depicting the proposed distance the 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. A cross-section drawing that depicts the height of the top of the deck above MHW or OHW, depth of water at the beginning of the terminal structure as measured from the MHW line or OHW mark, presence or absence of vegetation on bottom, and height and length of all structures.
        v. The waterfront width of the upland property.
        vi. The distance from shore to the top edge cut of any navigational channel in the immediate project vicinity.

vii. Mapped location of any special aquatic resources defined in 40 CFR 230 (i.e. oyster reefs, sea grass, marsh, mangrove habitat, mud flats) located within 50 feet of any portion of the proposed project and Endangered Species Act critical habitat (http://ecos.fws.gov/ipac/) located within 150 feet of any portion of the proposed project.

14. The proposed structure and work must be part of a single and complete project.

15. 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 or Galveston District's federal project channel setback standard operating procedures.

16. No work shall be performed until 30 days after notification of the owner or operator of any marked utilities in the project area.

17. 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.

18. Only one pier shall be constructed to extend from each littoral parcel.

19. The proposed structure work shall not replace any existing unserviceable structure until the unserviceable structure has been removed. Removal of existing unserviceable structures in association with the proposed work is authorized. The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, in association with the proposed work is authorized.

20. Piers, walkways, finger piers, and platforms not associated with personal watercraft or boat mooring facilities, are limited to 4 feet in width. Piers requiring handicap accessibility, documented by a Doctor's note, are limited to 6 feet in width over unvegetated areas. (*See condition 31 for additional limitations in vegetated areas*)

21. Terminal structures (i.e. those structures located at the terminus of a walkway including T-heads and L-heads) are limited to a maximum of 300 square feet, excluding normal appurtenances, personal watercraft ramps/platforms, rooftop, and boat mooring facilities. Structures not associated with a walkway, such as decks constructed parallel and directly adjacent to existing shorelines/bulkheads, shall be considered terminal structures and shall not exceed 300 square feet in area.

22. Normal appurtenances associated with piers such as step-downs, and fish cleaning tables or platforms shall not exceed a combined maximum of 100 square feet in unvegetated areas. (*See condition 31 for limitations in vegetated areas*)

23. A single boat mooring facility, including boat shelters, lifts, hoists, roof, etc. may be authorized. This facility is limited to a maximum width of 20 feet. The width of these facilities shall include the rooftop, all associated finger piers, platforms, walkways, and open water within the footprint of the boat mooring facility. The width of boat mooring facilities constructed contiguous with a pier walkway shall not include the width of the walkways to access the terminal structure or terminal structure. These facilities shall be constructed with no sidewalls.

24. Permitted structures shall not have personal watercraft ramps/platforms that exceed a combined maximum area of 120 square feet.

25. For Projects where decks and/or walkways constructed parallel and directly adjacent to existing shorelines/bulkheads:
    a. No decks or walkways parallel and directly adjacent to existing shorelines/bulkheads shall be constructed in water depths less than -2.5 feet MHW.
    b. No decks or walkways parallel and directly adjacent to existing shorelines/bulkheads shall be constructed over areas that contain oyster reefs, emergent marsh, mangroves, or sea grasses.
    c. No decks or walkways parallel and directly adjacent to existing shorelines/bulkheads may be constructed within 10 feet from the common boundary line of adjoining properties that are under separate ownership. The set back is measured at the point where common boundaries intersect with the MHW or OHW mark on the shorelines.

26. No portion of a boat mooring facility or personal water craft mooring facility shall be constructed within 20 feet of an area that presently supports submerged aquatic vegetation.

27. This permit does not authorize the placement of enclosed buildings, living quarters, toilets, fuel-dispensing or sanitary pump-out facilities. This permit does not allow a covered or enclosed second story. This permit does not authorize floating piers or terminal structures other than small appurtenances such as personal watercraft ramps/platforms.
28. Pilings shall be jetted in using hand-held jetting nozzles or shall be driven in and the structure shall not result in more than minimal impacts. The jetting activity of the pilings shall not impact any vegetated areas with suspended fill material.

29. No dredging, including prop washing, is authorized by this GP. The only disturbance of the bay bottom that can be associated with work authorized under this permit is for the jetting of pilings associated with the structure.

30. 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.

31. For projects that occur over areas that presently support special aquatic sites defined in 40 CFR 230 other than oyster reefs (e.g submerged aquatic vegetation, wetlands such as marsh and mangrove, and mud flat habitat) :
    a. The pier height shall be a minimum of 5 feet above the MHW line or OHW mark as measured from the top surface of the decking.
    b. Terminal structures shall not be constructed over mangroves (*Avicennia germinans or Rhizophora mangle*). Terminal structures over sea grass and/or marsh are limited to a maximum area of 160 square feet including contiguous appurtenances such as a platform, stairway, or fish-cleaning table. In addition, a combination of contiguous appurtenances such as platform, stairway, or fish-cleaning table shall not exceed a combined maximum of 50 square feet. The configuration of the platform shall be a maximum of 8 feet by 20 feet.
    c. Boat mooring facilities, including boat shelters, lifts, hoists, etc. and personal watercraft ramps/platforms, shall not be constructed over sea grass, marsh, or mangrove habitat.
    d. Pilings shall be installed in a manner which will not result in formation of sedimentary deposits ("donuts" or "halos") around the newly installed pilings. The number of pilings is limited to the minimum necessary, and the spacing of the pilings shall be a minimum of 10 feet on center unless shorter distances can further avoid sea grasses (e.g. patchy sea grass bed). Pile driving is the preferred method of installation. Where special aquatic sites are more than 3 feet from the piling, jetting with a low pressure pump may be used; high-pressure jetting is prohibited. The method of installing the pilings must be included in the application.
    e. Deck boards must be spaced a minimum of one inch between boards to allow sunlight penetration to the water.
    f. Heavy equipment working in wetlands or mud flats must be placed on mats, or other measures must be taken to minimize soil disturbance. The method of ingress and egress of heavy equipment must be included in the application.

32. 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 ROW. Potential damages include, but are not limited to: wakes, undercutting, erosion, barge/vessel/dredge damage, vessel collisions, or wave action.

33. Existing projects proposing modifications that continue to meet the terms and conditions of the General Permit may be modified by this General Permit.

Further Information:

1. Congressional Authorities: You have been authorized to construct the structure 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 authorization of individual projects under this general will be made in reliance on the information the applicant 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.

Robert W. Heinly
Deputy Chief, Regulatory Division
FOR COLONEL RICHARD P. PANNELL

Date 10/29/15