DEPARTMENT OF THE ARMY GENERAL PERMIT

Permittee General Public

Permit No. SWG-2007-00720

Issuing Office Galveston District

Project Description: Structures and work authorized by the General Permit are limited to pile supported single-family and multi-family recreational piers. Authorized structures associated with piers shall include, boat houses/shelters, storage buildings, lifts, hoists, personal watercraft ramps/platforms and dry hydrants.

Project Location: On Lake Livingston, an impoundment of the Trinity River, in Polk, San Jacinto, Walker and Trinity Counties, Texas.

Programmatic and Regional General Permit Conditions:

This General Permit will expire on **December 31, 2017**, unless modified, extended or revoked.

1. The time limit for completing the work authorized herein ends on **December 31, 2017 or** if the Department of the Army authorization is within two years of the expiration of this General Permit, **within 2 years of the Department of the Army approval**.

2. 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 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.

3. If the permittee sells the property associated with this authorization, the permittee must make a good faith transfer of this authorization by obtaining the signature of the new owner in the space provided and forward a copy to the U.S Army Corps of Engineers, Galveston District to validate the transfer of this authorization.

4. No structure or work shall affect historical 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.

5. If any previously unknown historic or archeological remains are discovered while constructing the structures authorized by this permit, the permittee must immediately cease work and notify the District Engineer or his authorized representative(s) or designee(s). The Staff Archeologist will initiate State and Federal coordination required to determine if the remains warrant a recovery effort or of the site is eligible for listing in the National Register of Historic Places. Work may only resume upon approval of the District Engineer or his authorized representative(s) or designee(s).

6. 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.

7. The permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

8. This General Permit will not be valid without all other state, local or regional authorizations required by law.

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

10. No structure will be authorized that is likely to jeopardize the continued existence of a threatened or endangered species which is likely to destroy or adversely modify the critical habitat of such species as identified under the Federal Endangered Species Act

11. 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 Department of the Army authorizations previously issued for the project site.

    c. A vicinity map, top view, typical cross section and a description of the proposed method of construction. Drawings shall include:

    d. A vicinity map with the precise location of the project so that its geographic coordinates can be determined.

    e. 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.

    f. Top view and cross section drawings depicting the proposed distances the structure will extend into the water body as measured from the pool elevation line.

    g. A cross-section drawing that depicts the height of the top of the deck above pool elevation, depth of water at the beginning of the terminal structure as measured from pool elevation, presence or absence of vegetation on bottom, and height and length of all structures.

h. The waterfront width of the upland property.

i. The distance from shore to the top edge of any navigable channel in the immediate vicinity.

j. Mapped location of any aquatic resources (i.e. wetlands or submerged aquatic vegetation) located within 50 feet of any portion of the proposed project.

k. Example plans should be used to identify required information. Example plans are located at http://1.usa.gov/ZRNSQG

12. Terminal structures are limited to a maximum of 1500 square feet in gross plan view, including all normal appurtenances, personal watercraft ramps/platforms and boat moorings facilities.

13. Terminal structures will be limited to a maximum distance of 150 feet out into the water or 1/3rd the width to the opposite shore of a cove, channel or creek measured perpendicular to the shoreline.

14. Piers/Walkways are defined as structures built perpendicular to the shoreline in order to access a terminal structure and are limited to 6 feet in width.

15. This permit does not authorize living quarters, toilets, and fuel-dispensing or sanitary pump-out facilities. Enclosed structures may be constructed over water provided that their use is clearly for storage, are clearly non-inhabitable, they are constructed on or connected to the terminal structure of the pier or boathouse and do not exceed 200 square feet in gross plan view. This permit does not allow a covered second story.

16. The proposed work shall not replace any existing unserviceable structure until the unserviceable structure has been completely removed.

17. Stumps located within the footprint of the proposed structure may be removed mechanically by sawing or shearing, and only upon the receipt of permission from the Trinity River Authority. All portions of stumps cut or sheared shall be removed from Lake Livingston. The excavation and/or removal of stumps that remain after mechanical sawing or shearing, including the root ball, are not authorized by the General Permit.

18. Dry Hydrants may be installed along the shoreline provided typical plan view and cross sections drawings are submitted and approved by the Trinity River Authority.

19. The permittee will not prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

20. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

21. Unless otherwise provided for by law, the permittee will install, display and maintain, at the expense of the permittee, lights and signals on all structures and/or work authorized herein as may be prescribed by the United States Coast Guard.

22. New dredging is not authorized by this permit. Prop washing is not authorized by the permit. 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.

23. This permit does not convey any property rights, either in real estate or material, or any exclusive privileges: and 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 authorization required by law for the activity authorized herein.

24. All activities identified and authorized herein shall be consistent with the terms and conditions of this permit. Any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit. Violations of this permit may result in modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in Conditions 13 and 14 hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked.

25. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activities authorized herein would be in the general public best interest. Such suspension shall be effective upon publication of a public notice and distribution of same to those outlets receiving the initial public notice. The notice shall indicate (1) the extent of the suspension, (2) the reasons for the actions and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to ablate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will be reinstated, modified, or revoked.

26. That this permit may be modified, suspended, or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that such action would otherwise be in the public interest. Any modification, suspension or revocation shall become effective thirty (30) days after publication of written notice of such action which shall specify the facts or conduct warranting same unless (1) within thirty (30) day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms of the conditions of the permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of the permit; or (2) within the aforesaid thirty (30) day

period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension, or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend, or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

27. As of the effective date of this General Permit, all existing structures and activities in the permit area which have been authorized by the Trinity River Authority and which, in the judgment of the Trinity River Authority, are in satisfactory condition, will be considered permitted by the Department of the Army. Additionally, any activity underway as of the effective date of this permit, which has been authorized by the Trinity River Authority, will be considered permitted under the terms of this General Permit.

28. Any modification, suspension or revocation of this permit shall not be the basis for any claim for damages against the United States.

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.

This general 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 CHRISTOPHER W. SALLESE

12/13/12
(DATE)