



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

PUBLIC ANNOUNCEMENT

CESWG-PE-R

14 August 1998

SUBJECT: GENERAL PERMIT 19708(01)

To Whom It May Concern: The U.S. Army Corps of Engineers, Galveston District, has extended the time for a Department of the Army General Permit as describe below.

SPONSOR:

U.S. Army Corps of Engineers
Galveston District
P.O. Box 1229
Galveston, Texas 77553-1229

SCOPE OF WORK: This General Permit authorizes the applicant, the Railroad Commission of Texas, to place fill material in isolated ponds created by surface mining activities. The fill would eliminate steep slopes that are hazardous to public safety and not capable of sustaining vegetation. A high quality, productive wetland would be created that would improve wildlife habitat.

BACKGROUND: Department of the Army General Permit 19708 was originally issued on May 17, 1993, authorizing the reclamation of surface mined areas which have converted to waters of the United States. The General Permit was scheduled to expire on December 31, 1998. A Public Notice for this General Permit was issued on July 6, 1998, proposing an extension of time until December 31, 2003.

The purpose of the General Permit is to expedite the authorization of such operations subject to the limitations and conditions described in the attached copy of the permit. The conditions incorporated into the permit must be adhered to. Applicants seeking authorization under this General Permit must submit plans on 8-1/2 by 11-inch format to the Corps of Engineers, Galveston District, showing the type and location of a project.

If there are any questions relative to this Public Announcement, please contact Mr. Mark King at the above address, by telephone at 409-766-3991, or by e-mail at john.m.king@swg01.usace.army.mil.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee GENERAL PERMIT

Permit No. 19708(01)

Issuing Office Galveston District

EXPIRATION DATE 31 DECEMBER 2003

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 place fill and to reclaim abandoned surface mines.

Project Location: Waters of the United States within the regulatory boundaries of the Galveston District within the State of Texas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2003. 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:

See Attachment Sheet 2a and 2b.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity 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.

GENERAL PERMIT 19708(0)

SPECIAL CONDITIONS:

1. This general permit authorizes the placement of fill in inundated pits that are a result of abandoned surface mining activities. The permittee agrees to make every reasonable effort to prosecute the work authorized herein, in a manner so as to minimize any adverse impact of the work on water quality, natural environmental values, and fish and wildlife resources.
2. That no work shall be done until the applicant submits satisfactory plans for the proposed activity, that includes the pre-project test results of water and sediment samples for each site, and has received written acknowledgment of authorization from the District Engineer.
3. That the proposed activities within the Corps of Engineers jurisdiction will not adversely affect Federally listed, threatened or endangered species or adversely modify their critical habitat as defined by the Endangered Species Act of 1973, as amended.
4. That the general permit may be modified, suspended, or revoked, in whole or in part, if it is determined that the individual or cumulative impacts of work authorized are not in the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon finding by the District Engineer that immediate suspension of the activity would be in the public interest.
5. That the Corps of Engineers will coordinate the proposed project plans with the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department for their review prior to the issuance of each general permit authorization.
6. That no work shall be performed until 30 days after notification of the owner or operator of any utilities in the area of work.

REQUEST FOR AUTHORIZATION UNDER THIS PERMIT:

IN ORDER TO BE AUTHORIZED BY THIS PERMIT, PERSONS PROPOSING THE WORK ARE REQUIRED TO SUBMIT TO THE DISTRICT ENGINEER THE FOLLOWING INFORMATION:

- A. The applicant will furnish a description of the work along with plans and a written request for authorization to perform the work and a telephone number at which he can be reached during

normal working hours. The standard application form (ENG Form 4345) shall be used, with a note indicating that authorization is desired under this general permit.

B. If the District Engineer determines that the proposed work meets the provisions of the general permit, and no extraordinary conditions exist that would warrant processing as an individual permit, he will notify the applicant by Letter of Acknowledgment.

C. If the District Engineer determines that the proposed work does not meet the provisions of the general permit, or that the extraordinary conditions exist, he will notify the applicant that the application must be processed as an individual permit.

DURATION OF GENERAL PERMIT:

This general permit will cover all activities authorized prior to December 31, 1998, unless it is revoked in the interim. Site specific authorizations will be for a period of 3 years.

John Hall, Chairman
Pam Reed, Commissioner
Peggy Garner, Commissioner



0 8 APR 1993

TEXAS WATER COMMISSION

PROTECTING TEXANS' HEALTH AND SAFETY BY PREVENTING AND REDUCING POLLUTION

April 5, 1993

Mr. Bobby Hamrick Hamrick
Galveston District SWGOO-RP
Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: USCOE Permit Application No. 19708

Dear Mr. Hamrick:

The Texas Water Commission (Commission) has reviewed the activities proposed for regulation by a Corps of Engineer General Permit as proposed in their notice dated December 30, 1992. Surface reclamation projects of the Railroad Commission of Texas (RCT), which will be covered by the proposed general permit, can not be certified across the board as being in compliance with the Texas Surface Water Quality Standards (Standards).

We have discussed with the Corps of Engineers and the RCT our reservation in the issuance of a certification without having some assurance that these types of projects will be reviewed by the Commission. We concur that a general permit versus an individual permit is preferred for these activities. The Commission in reviewing reclamation projects will give consideration to preexisting conditions and the RCT efforts to restore the area to predisturbed conditions to the greatest extent possible.

Therefore, to enable the Corps to proceed with issuance of the general permit the Commission conditionally certifies the proposed general permit pursuant to the requirements of Section 401 of the Federal Clean Water Act and Title 31, Texas Administrative Code, Chapter 279 subject to the following condition:

The Railroad Commission of Texas (RCT) shall submit to the Texas Water Commission (TWC) a project description for each site for which an Abandoned Mine Land Construction Grant will be submitted to the Department of Interior, Office of Surface Mining Reclamation and Enforcement (OSM). The RCT will submit their request for project review to the TWC, Attn: Section 401 Coordinator of the Federal Clean Water Act, at a minimum of 35 days prior to the Commission's reply being required. The TWC's response to a project review will either state that a Standards violation should not occur or conditions will be identified to address TWC concerns. The TWC's response may be used by the RCT to satisfy any requirements of OSM and the Corps.

We appreciated the extension of time you provided us in order to become more familiar with the activities to be regulated and we appreciated the staff of the Railroad Commission of Texas meeting with us to discuss issues of concern to both agencies. We believe we now have some common ground to review and comment on reclamation projects and our response to a particular project can proceed with minimum delay due to the coordination which has occurred and will occur with each project submitted for review.

If we may be of further assistance, please contact Mr. Charles Eanes, Section 401 Coordinator, Watershed Management Division at 512/463-8245.

Sincerely,



Jesús Garza
Executive Director

cc: Mr. Mark Rhodes, Railroad Commission of Texas, Austin

- 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.

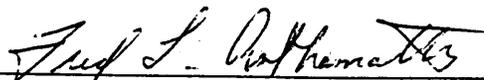
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable 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)

(DATE)

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



(DISTRICT ENGINEER)

**FRED ANTHAMATTED, CHIEF
POLICY ANALYSIS SECTION
FOR COLONEL ERIC R. POTTS**

10 August 1998

(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.

(TRANSFEREE)

(DATE)