

JUN 26 2006



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-RB**

24 December 2002

**SUBJECT:** Permit No. 14533(04); Extension of Time

To Whom It May Concern: The U.S. Army Corps of Engineers, Galveston District, has amended a Department of the Army Regional General Permit (GP), as described below:

**SPONSOR:**

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

**WATERWAY AND LOCATION:** Navigable waters of the United States within the Galveston District.

**SCOPE OF WORK:** Work authorized by this GP is limited to excavation of boat slips within existing, upland, man-made canals.

**BACKGROUND:** A public notice was issued on 15 October 2002 proposing an extension of time for GP 14533(03).

The purpose of this GP is to expedite the authorizations of such operations subject to the limitations and conditions described in the attached copy of the permit. Applicants seeking authorization under this GP must submit plans on 8½- by 11-inch paper to the Corps of Engineers, showing the type and location of the proposed action.

If there are any questions relative to the Public Announcement, please contact Mr. John Machol at the above address or by telephone at 409-766-3944.

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS

JUN 26 2006

DEPARTMENT OF THE ARMY PERMIT

Permittee US Army Corps of Engineers, Galveston District

Permit No. 14533(04)

Issuing Office Galveston District

Expiration Date 31 December 2008

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: All persons engaged in the construction of boat slips requiring authorization from the U.S. Army Corps of Engineers, Galveston District.

Project Location: Locations within the Galveston District boundaries, in existing manmade upland canals.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on within 2 years of the date of Corps of Engineers approval. 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 attached sheets 2a through 2b with Special Conditions.

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.

**Special Conditions:**

- a. That the work herein authorized includes the construction of boatslips 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 runoff from the construction site and areas devegetated during the construction activities.
- c. Prior to the performance of hydraulic dredging, the permittee will obtain a Section 401-water quality certification from the Texas Commission on Environmental Quality for the effluent or return water. The permittee will submit a copy of the Section 401-certification to the Corps Galveston District, prior to performing hydraulic dredging.
- d. That the maximum area of boatslips 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 6 feet 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.
- k. That this General Permit will be valid until suspended or revoked by the District Engineer. A review will be conducted after 5 years to determine if continuation of the permit is in the public interest.
- l. 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.
- n. 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.

- o. 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.
- p. 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.
- q. 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.
- r. 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.

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

- a. The applicant will furnish a description of the work along with plans and a written request to perform the work and a telephone number at which he/she can be reached during normal working hours. The standard application form (ENG Form 4345) shall be used, with a note on the form indicating that General Permit authorization is desired. The description and drawings of the work should include the following:
  - (1) Location, plan and typical profile view of the boatslip showing all work, including the trench, cofferdams, equipment ramps, and bank stabilization, in waters of the United States and any wetlands.
  - (2) Drawings must include the amount of excavation required and a disposal plan, including the location of the disposal site, and must include the amount, type, and location of bank stabilization and/or fill material to be used.
  - (3) All drawings are to be 8-1/2-by 11 inches, of reproducible quality, and submitted in the fewest number of sheets necessary to adequately show the proposed activity.
- 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.
- c. If the District Engineer determines that the proposed work does not meet the provisions of the General Permit, or that extraordinary conditions exist, he will notify the applicant that filing of an application for an individual permit will be necessary.

- 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.

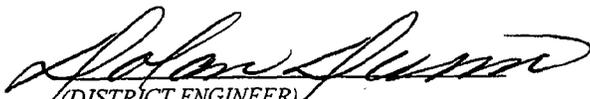
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable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

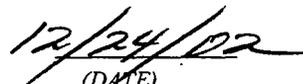
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE)

\_\_\_\_\_  
(DATE)

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

  
(DISTRICT ENGINEER)  
**DOLAN DUNN, CHIEF  
REGULATORY BRANCH  
FOR COLONEL LEONARD D. WATERWORTH**

  
(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)

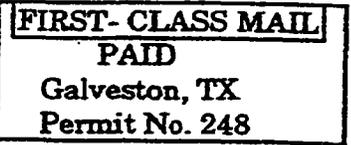
JUN 26 2006



**US Army Engineer District, Galveston**  
**PO Box 1229**  
**Galveston, Texas 77553-1229**

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**OFFICIAL BUSINESS**  
**CESWG-PE-R**



**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: <b>Frank and Dawn Earley</b>		File Numbers: <b>14533(04)/051</b>	Date: <b>6-1-2004</b>
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of Permission)		B
	PERMIT DENIAL		C
<b>X</b>	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>

Or Corps regulations at 33 CFR Part 331

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved jurisdictional determination (JD) or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Douglas Boren, Regulatory Specialist  
CESWG-PE-RE, P.O. Box 1229  
Galveston, Texas 77553-1229  
Telephone: 409-766-3949; FAX: 409-766-3949

If you only have questions regarding the appeal process you may also contact:

James E. Gilmore, Appeal Review Officer  
CESWD-ETO-R, 1100 Commerce Street  
Dallas, Texas 75242-0216  
Telephone: 214-767-2457; FAX: 214-767-9021  
Email: James.E.Gilmore@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or authorized agent.	Date:	Telephone number:
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