

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT

Permittee General Public

General Permit Number SWG-1997-02817

Issuing Office U.S. Army Corps of Engineers, Galveston District (Corps)

Project Description: The mechanical excavation of boat slips in uplands adjacent to man-made canals.

Project Location: In existing, man-made upland canals located within Galveston District, except Louisiana.

Regional General Permit Conditions

1. The time limit for completing the work authorized herein ends on 31 December 2019 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 (DA) approval.**
2. 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 plan view of the:
 1. Area to be excavated, the location of any trenches, equipment ramps, any bank stabilization, and their relative location to the waters of the United States.
 2. Location of dredged material placement area and its relative location to waters of the United States as well as all methods to assure the dredged material will be confined.
 - iii. A cross section drawing showing dimensions of
 1. The area to be excavated, the cubic yards of material to be removed, method of removal, location of bank stabilization and any other relevant information and data required in the Special Conditions.
 2. Location of dredged material placement area as well as all methods to assure the dredged material will be confined.
 - iv. Mapped location of any special aquatic resources (i.e. oyster reefs, sea grass, wetlands, etc.) located within 100 feet of any portion of the proposed project. The size of each special aquatic resource and its distance edge of the project boundary must be depicted on this map.
 - v. 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.

- d. A statement that the work will be conducted in compliance with the terms and conditions of this GP.
 - e. A statement of estimated start and completion dates.
3. No work shall be performed until the applicant has received written authorization by the District Engineer.
4. Hydraulic dredging and/or Prop/wheel washing is not authorized by this General Permit.
5. New construction of canals and removal of plugs are specifically excluded from this authorization.
6. The permittee shall notify the Corps, in writing, of the date that the work authorized herein commences.
7. That the maximum area of boat slips covered by this General Permit is 900 square feet and the dimensions of the boatslips shall not exceed 50 feet in any direction. 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.
8. 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.
9. The 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.
10. No boatslips shall be constructed that interfere with any canal system designs previously installed to control runoff, improve circulation or otherwise maintain water quality.
11. The permittee 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 Permit Condition 8 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
12. When work authorized by this permit are still in existence at the time they are transferred to new ownership, the permittee 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).

13. No work may affect historic properties listed or eligible for listing in the National Register of Historic Places until the Corps and applicant has complied with the provisions of Section 106 of the National Historic Preservation Act.

- a. The Corps will review all proposed activities for cultural resources requirements, and, when appropriate, coordinate these activities with the Texas Historical Commission (THC). If potential historic properties are located in the project area, they shall be avoided by a sufficient margin as designated by the Corps and the THC. If avoidance of the potential historic properties is not feasible, further archeological investigations shall be required.
- b. If any previously unknown historic or archeological remains are encountered while accomplishing the activity authorized by this permit, you must immediately cease and desist 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.

14. Work is prohibited within 1000 feet of an identified bird rookery between February 14th and September 1st.

15. No structure or fill 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 critical habitat of such species as identified under the federal Endangered Species Act.

- a. Prior to authorization 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.

16. No impact to seagrasses, oyster reefs, or other special aquatic sites, such as wetlands or mudflats, is authorized by this General Permit. Work authorized by this General Permit shall not restrict or impede the movement of aquatic species indigenous to these waters.

17. If the determination is made that the adverse effects of the proposed work are more than minimal, then the applicant will be notified that either: (1) the project does not qualify for authorization under the GP and instruct the applicant on the procedures to seek authorization under a standard permit; (2) the project is authorized under the GP subject to the applicant's submission of an approved mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) the project is authorized under the GP with specific modifications or conditions.

18. The permittee must allow representatives from the appropriate Corps office to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of the permit.

19. No work will be allowed to obstruct any navigation channels.

20. 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.
21. When structures or work authorized by this permit are determined by the District Engineer to have become abandoned, or obstructive to navigation, or cease to be used for the purpose for which they were permitted, such structures or other work must be removed and the area cleared of all obstructions, and written notice given to the Chief of Compliance, Galveston District Regulatory Branch within 30 calendar days of completion.
22. Aids to navigation, if required, will be permitted and placed in accordance with United States Coast Guard Regulation 33 C.F.R. 66.

Further Information:

I. 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. Authorization under this General Permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. Authorization under this General Permit does not grant any property rights or exclusive privileges.
- c. Authorization under this General Permit does not authorize any injury to the property or rights of others.
- d. Authorization under this General Permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing a project under this General 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 to authorize the activity under this General Permit as not contrary to the public interest will be made in reliance on the information provided by the applicant.

5. Reevaluation of Permit Decision. This office may reevaluate its decision to authorize an activity under this General Permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. The applicant fails to comply with the terms and conditions of this permit.
- b. The information provided by the applicant to support their 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 contain 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 the applicant to comply with the terms and conditions of their authorization under this General Permit and for the initiation of legal action where appropriate. The applicant will be required to pay for any corrective measures ordered by this office, and if they 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 the applicant for the cost.

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

Kimberly Mclaughlin

(DISTRICT ENGINEER)

12/31/14

(DATE)

**KIMBERLY MCLAUGHLIN, CHIEF
REGULATORY DIVISION
FOR COLONEL RICHARD P. PANNELL**