



**US Army Corps
of Engineers**

Vicksburg District

4155 Clay Street
Vicksburg, MS 39183-3435
www.mvk.usace.army.mil



Public Notice

FILE NO.:	General Permit - 33
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EXPIRATION DATE:	January 10, 2009

FOR: THE DISCHARGE OF DREDGED AND FILL MATERIAL FOR THE CONSTRUCTION OF DRAINAGE AND WATER LEVEL CONTROL STRUCTURES IN WATERS OF THE UNITED STATES AND THE ASSOCIATED DISCHARGE OF DREDGED AND FILL MATERIAL

WHERE: REGULATORY JURISDICTION OF THE VICKSBURG DISTRICT IN ARKANSAS, LOUISIANA, AND MISSISSIPPI

BY WHOM: DISTRICT ENGINEER, VICKSBURG DISTRICT, FOR THE U.S. DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE, AND NATURAL RESOURCES CONSERVATION SERVICE-SPONSORED AGENCIES

Interested parties are hereby notified that the U.S. Army Corps of Engineers, Vicksburg District, the Arkansas Department of Environmental Quality, the Louisiana Department of Environmental Quality and the Mississippi Department of Environmental Quality are considering reissuance of a General Permit and State Water Quality Certifications for activities described herein. Comments should be forwarded to the Vicksburg District, ATTN: CEMVK-OD-FP and the appropriate State Agency listed below. Comments must reach these offices by the expiration date cited above.

In Arkansas, comments should be directed to the Arkansas Department of Environmental Quality at 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

In Louisiana, a water quality certification is required in accordance with statutory authority contained in the Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) and provisions of Section 401 of the Clean Water Act (P.L. 95-217). Comments should be forwarded to the Louisiana Department of Environmental Quality, Office of Water Resources,

Water Pollution Control Division, Post Office Box 82215, Baton Rouge, Louisiana 70884. The Louisiana Department of Environmental Quality has additional information on file in their office in Baton Rouge and may be inspected at any time between 8:00 a.m. and 4:30 p.m. weekdays. Copies may be obtained from the Louisiana Department of Environmental Quality upon payment of the cost of printing. The Louisiana Department of Environmental Quality will make a final decision on the water quality certification pertaining to this General Permit within 30 days after expiration of this notice.

In Mississippi, comments should be directed to the Mississippi Department of Environmental Quality, Office of Pollution Control at Post Office Box 10385, Jackson, Mississippi 39289-0385.

The U.S. Army Corps of Engineers, Vicksburg District, is currently considering the reissuance of a Department of the Army General Permit on behalf of the U.S. Department of Agriculture, Natural Resources Conservation Service, and Natural Resources Conservation Service-sponsored agencies. The proposed General Permit includes the construction of drainage structures and the associated discharge of dredged and/or fill material into waters of the United States within the regulatory jurisdiction of the Vicksburg District in the States of Arkansas, Louisiana, and Mississippi. Widely used drainage structures include, but are not limited to, cantilever overfall pipes, drop inlet structures, water level control structures, and grade and erosion control structures. A map of the Vicksburg District (enclosure 1) and typical drawings (enclosure 2) are enclosed.

This proposed General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Conformance with conditions contained in the General Permit does not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, application will be required for individual permits. Construction, dredging, or fill operations not specifically authorized by this General Permit are prohibited unless authorized by a separate permit.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for activities in waters of the United States. These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

General Permits may be issued for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency, provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal. The determination that the proposed activities comply with the requirements for issuance of General Permits was made using information, which is available for inspection at the offices of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District will obtain water quality certification from the Mississippi Department of Environmental Quality, the Arkansas Department of Environmental Quality, and the Louisiana Department of Environmental Quality stating that the work authorized by the proposed General Permit will not violate applicable provisions of Sections 301, 302, 306, and 307 of the Act.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: IN ORDER TO BE AUTHORIZED BY THIS GENERAL PERMIT, PERSONS PROPOSING THE WORK ARE REQUIRED TO SUBMIT TO THE DISTRICT ENGINEER, IN WRITING, THE FOLLOWING INFORMATION AT LEAST 45 DAYS PRIOR TO CONDUCTING THE WORK:

- a. State the number of the General Permit under which the work is to be conducted. (General Permit - 33)
- b. Statement that the work will be conducted in compliance with the terms and conditions of the General Permit and will not adversely impact adjoining properties.
- c. Location map showing the proposed worksite (including section, Township, Range, County or Parish, and State).
- d. Drawing of any proposed structures including dimensions and amounts of excavated and fill material in cubic yards.
- e. A brief description of the present condition of the project site.
- f. A brief description of the proposed activity, its purpose, and intended use.
- g. Estimated starting and completion dates of construction.

h. Name, mailing address, and telephone number of (person/agency) applying for authorization.

Upon receipt of this information, the District Engineer will evaluate the proposal and advise the inquiring party, in writing, either that the work is authorized under the General Permit; will request additional information, if needed; or will advise that the proposed activity will require an individual permit.

Special Conditions:

a. The authorized structures shall not extend into the channel of the receiving stream so as to interfere with navigation (including recreational boating) or adversely affect the flow-carrying capacity of the receiving stream.

b. The pipe structure shall be covered with at least 1.5 feet of fill material.

c. The amount of material used for fill shall not exceed 5,000 cubic yards. In Louisiana: If fill material is to be removed from a state-owned water body, the applicant must contact the Louisiana Department of Wildlife and Fisheries for fee charges.

d. The fill material shall be compacted upon completion of construction. The site shall be revegetated by sod, seed, or another acceptable method, as necessary, to restore cover and prevent erosion. In areas subject to currents, riprap may be required for slope protection.

e. Material used for fill may be obtained from site preparation. Additional fill shall be obtained from an upland source and must be nonpolluting in conformance with k. below. Additional material shall not be obtained from any wetland or any area which will affect an adjacent wetland.

f. No activity that may adversely impact a site listed in or eligible for listing in the National Register of Historic Places shall be allowed by this General Permit. Additional material shall not be taken from a known historical or archaeological site such as an Indian Mound. If the permittee, during prosecution of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Department of the Army jurisdiction, he shall immediately notify the District Engineer. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Tribal Archaeologists, will comply with 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

g. Authorized structures shall not increase the frequency, duration, or elevation of floodwaters on adjoining property. This General Permit does not authorize the construction of greentree reservoirs.

h. If damage to a revetment occurs as a result of work in accordance with this General Permit, the permittee shall be required to make necessary repairs at his own expense. These repairs must meet specifications designated by the District Engineer.

i. The discharge shall not occur in a component of the National Wild and Scenic River System or in a component of a State Natural and Scenic River System without the appropriate Federal or State authorization.

j. The discharge shall not occur in a Coastal Zone Management area without the appropriate State authorization. The coastal zone approval shall be submitted with the request for authorization under this General Permit. In order to be authorized by this General Permit for work in Hancock County, Mississippi, or St. Tammany Parish, Louisiana, persons proposing work are required to send complete plans to the appropriate state at one of the following addresses:

Mississippi Department of Marine Resources
Suite 101
1141 Bayview Avenue
Biloxi, Mississippi 39530

Louisiana Department of Natural Resources
Coastal Management Division
Post Office Box 44487
Baton Rouge, Louisiana 70804-4487

k. Dredged, excavated, or fill material used for construction shall be nonpolluting material in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.

l. All construction activity shall be performed in a manner that will minimize increased turbidity of the water in the work area and otherwise avoid adverse effects on water quality and aquatic life especially during fish spawning seasons.

m. All material not used as backfill shall be placed upland and no runoff water from these disposal sites will be allowed to enter the waterway or adjacent wetlands.

n. The discharge shall not be located so as to adversely affect a public water supply intake or a national fish hatchery intake.

o. The discharge shall not contain unacceptable levels of pathogenic organisms in areas used for sports involving physical contact with the water.

p. The discharge shall not occur in areas of concentrated shellfish production.

q. No activity that is likely to adversely affect Federally listed threatened or endangered species, or that is likely to destroy or adversely modify the critical habitat of such species, is authorized under this General Permit.

r. The construction activity shall not result in the relocation or blockage of a natural stream or river channel or adversely impact or drain wetlands.

s. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

General Conditions:

a. 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 b. 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 authorization from this office, which may require restoration of the area.

b. If you sell the property associated with the authorization under this General Permit, you must contact this office so that the authorization can be transferred to the new owner.

c. 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.

d. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

e. This permit does not grant any property rights or exclusive privileges.

f. This permit does not authorize any injury to the property or rights of others.

g. This permit does not authorize interference with any existing or proposed Federal project.

h. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.

(2) 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.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

i. In issuing individual authorization under this General Permit, the Government will rely on the information and data which the permittee provides in connection with his permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

Further Information:

a. Additional copies of this Public Notice are available upon request from this office. Requests may be addressed to: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

b. The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which

reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

c. The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

d. Any person may make a written request for a public hearing to consider this proposed General Permit. This request must be made by the expiration date of this public notice and must clearly state why a hearing is necessary. Any individual or agency may comment on the project described in this notice; however, failure to comment will be interpreted to mean that there is no objection to the proposed General Permit. All comments received will be evaluated during the review process of this proposed General Permit.

e. Please bring this announcement to the attention of anyone you know who might be interested in this matter. Anyone wishing to make comments may communicate with us at the following address: USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.


David Lofton
Chief, Permit Section
Regulatory Branch