



**US Army Corps  
of Engineers.**

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



# Public Notice

FILE NO.:	MVK-2018-0808 (General Permit 46)
EVALUATOR:	Mr. Anthony R. Lobred
PHONE NO.:	(601) 631-5470
E-MAIL:	GeneralPermitReissuance@usace.army.mil
DATE:	October 23, 2018
EXPIRATION DATE:	November 20, 2018

**FOR:** THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS OF THE UNITED STATES AND/OR STRUCTURES OR WORK AFFECTING NAVIGABLE WATERS OF THE UNITED STATES ASSOCIATED WITH THE CONSTRUCTION AND STABILIZATION OF ROADWAY EMBANKMENTS AND BRIDGE ABUTMENTS

**WHERE:** THE STATE OF MISSISSIPPI

**BY WHOM:** DISTRICT ENGINEER, VICKSBURG DISTRICT, ON BEHALF OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION (MDOT)

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), Vicksburg District, and the Mississippi Department of Environmental Quality are considering the reissuance of a General Permit and State Water Quality Certification for activities described herein. Comments should be forwarded to USACE, Vicksburg District, ATTN: Regulatory Branch, 4155 Clay Street, Vicksburg, Mississippi 39183-3435 (or via email to: GeneralPermitReissuance@usace.army.mil) and the Mississippi Department of Environmental Quality, Office of Pollution Control at Post Office Box 2261, Jackson, Mississippi 39225-2261. Comments must reach these offices by the expiration date cited above.

The Vicksburg District is proposing the reissuance of a statewide General Permit for the discharge of dredged or fill material in waters of the United States and/or structures or work affecting navigable waters of the United States associated with the construction and stabilization of roadway embankments and bridge abutments.

This General Permit would authorize activities such as the repair and stabilization of existing roadway embankments and bridge abutments; the installation of additional traffic lanes to existing roadways; the upgrading of bridges and other stream-crossing structures; and, construction along new alignments.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for certain activities in and/or affecting waters of the United States. These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting navigable 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 discharge of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act (33 U.S.C. 1344).

An agreement was finalized between MDOT, Federal Highways Administration (FHWA), and USACE with concurrence from the appropriate Districts within Mississippi on September 19, 2016, which specifies that all MDOT projects within the State will be evaluated by the Vicksburg District.

Upon expiration of the agreement, since portions of the State are within jurisdictional boundaries of five USACE Districts (enclosure 1), subsequent authorizations to proceed with work proposed under this General Permit would be granted by letter from the appropriate District within whose boundaries the work would be located. The MDOT would be notified of any changes to the agreement and furnished the mailing address of each district.

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, an application will be required for an individual permit.

Regulated construction, dredging, or fill operations not specifically authorized by this General Permit would be prohibited unless authorized by a separate permit.

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 actions are individually and cumulatively minimal. The determination that the proposed activities comply with the requirements for the issuance of General Permits was made using information which is available for inspection at the office 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 activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site (i.e., on site). Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

In order to compensate for any unavoidable losses of functions of jurisdictional waters of the United States associated with the work authorized by the proposed General Permit; the Mississippi Department of Transportation would develop a compensatory mitigation plan. The compensatory mitigation plan would be fully described in accordance with 33 CFR Parts 325 and 332, Compensatory Mitigation for Losses of Aquatic Resources; Final Rule, April 2008.

**REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: IN ORDER TO BE AUTHORIZED BY THIS GENERAL PERMIT, THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION WOULD BE REQUIRED TO SUBMIT TO THE DISTRICT ENGINEER, IN WRITING, THE FOLLOWING INFORMATION A MINIMUM OF 60 DAYS PRIOR TO THE PROPOSED BID ADVERTISEMENT DATE:**

a. Statement that the work would be conducted in compliance with the terms and conditions of General Permit 46, would not adversely impact adjoining properties, and would be mitigated for in accordance with the terms of this General Permit.

b. A location map showing the proposed worksite (including Section, Township, Range, and County).

c. A brief description of the proposed worksite in its present condition.

d. For the selected site, a full set of construction plans (including quantities and types of any fill and quantities of any excavation), maps, and engineering drawings for the proposed activity at that site. These shall include a map of sufficient scale that illustrates an "overlay" of the proposed construction/development activity (e.g. construction roads, ditches, parking areas, lay-down pads, temporary work areas, remaining natural areas, etc.) on jurisdictional waters of the U.S.

e. The estimated starting and completion dates of the proposed construction.

f. Name, mailing address, telephone number, and email address, of the person acting as the point of contact for the requested authorization.

g. If wetlands or other waters of the U.S. are to be impacted, the following information is required:

(1) A map delineating the wetlands and other waters of the U.S. and copies of the associated data form(s) for routine wetland determinations from the 1987 Corps of Engineers Wetland Delineation Manual and its subsequent Regional Supplement Manual(s) covering the proposed project area(s).

(2) The type and date of approval of the NEPA documentation by the FHWA and a copy of their findings as required by Executive Order 11990.

h. A discussion of how adverse impacts to waters of the U.S. from the proposed activity will be avoided and minimized to the maximum extent practicable at the construction site.

i. If the loss or conversion to waters of the United States at a single and complete project site exceeds 0.1 acre, the application shall include a compensatory mitigation plan based on an approved wetland functional assessment methodology. Such recommendations should include copies of all factual information (e.g. worksheets) used in performing the calculations of the functional assessment. (Note: The District Engineer will consider this recommendation, however, the District Engineer retains discretionary authority in making the final decision on compensatory mitigation measures).

j. If impacts to a natural waterway at a single and complete project site exceed 100 linear feet, MDOT would include a compensatory mitigation plan based on an approved stream functional assessment methodology. Such recommendations would include copies of all factual information (e.g. worksheets) used in performing the calculations of the functional assessment. (Note: The District Engineer will consider this recommendation, however, the District Engineer retains discretionary authority in making the final decision on compensatory mitigation measures).

k. Comments from the Mississippi Department of Wildlife, Fisheries and Parks, Mississippi Department of Archives and History (including the results of any National Historic Preservation Act, Section 106, consultation actions), United States Fish and Wildlife Service (including the results of any Endangered Species Act, Section 7, consultation actions), and the Mississippi Department of Environmental Quality on the project.

l. Concurrence in writing from the Mississippi Department of Marine Resources (related to the Coastal Zone Management Act) and the National Marine Fisheries Service (including the results of any Magnuson-Steven Fisheries Conservation and Management Act, essential fish habitat consultation actions), if the project is located in Hancock, Harrison, or Jackson County, Mississippi. (See Special Condition h. below).

Upon receipt of this information, the District Engineer will: advise MDOT, in writing, either that the work will be evaluated for authorization under the General Permit 46; will request additional information, if needed; or will advise MDOT that the proposed activity will be evaluated as an individual permit.



### Special Conditions:

a. No more than 7 acres of wetlands and other waters would be directly impacted by the placement of fill at each single and complete crossing of a water of the United States where the proposed work involves either upgrading an existing highway within an established corridor or where the work is to be constructed along a new alignment. Any wetlands cut off from their natural hydrologic regime as a result of project work would be considered as directly impacted.

b. For stream or river crossings, discharges of permanent fill material and temporary fill material would be the minimum necessary to complete the crossing. The term fill refers to earthen material, riprap, concrete, and any other materials associated with the work.

c. The stabilization or construction work would not interfere with navigation (including recreational boating) or adversely impact the flow-carrying capacity of the affected waterbody.

d. Material to be used for fill must be nonpolluting and may be obtained either offsite or from site preparation. Offsite material would not be obtained from wetlands outside the 7-acre limit or from other areas which may adversely affect adjacent wetlands. Any excess material would be placed in an upland area and properly contained or stabilized to prevent entry into adjacent water-bodies or wetlands.

e. Disturbed areas on the site would be stabilized to minimize erosion. Stabilization of erodible areas would be accomplished by seeding or sodding as soon as practicable to restore vegetative cover. If initial re-vegetation is unsuccessful, the area would be reseeded or re-sodded until re-vegetation is successful. In areas subject to currents, riprap may be required for slope protection.

f. No activity that may adversely affect a site listed in or eligible for listing in the National Register of Historic Places would be authorized by this General Permit until the requirements of Section 106 of the National Historic Preservation Act have been satisfied. Additional material would not be taken from a known historical or archaeological site. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the District Engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

g. The work would not occur in a National Wildlife Refuge, State Game Management Area, or other such Federal or State lands, or lands leased to those entities without the appropriate Federal or State authorization in writing.

h. For work within the Mississippi Coastal Zone Management Area, including all areas below Interstate I-10, a set of complete plans would be sent to the two agencies listed below for review and/or approval as appropriate. Comments and concurrence resulting from this coordination would be submitted with the request for authorization under this General Permit.

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

2. National Marine Fisheries Service  
Southeast Regional Office  
Protected Resources  
Attention: Ms. Karla Reece  
263 13<sup>th</sup> Avenue S.  
St. Petersburg, Florida 33701  
Email: Karla.reece@noaa.gov

3. National Marine Fisheries Service  
Room 266, Military Science Building  
Attention: Mr. Brandon Howard  
South Stadium Drive  
La. State University  
Baton Rouge, Louisiana 70803-7535

i. All temporary fills must consist of non-erodible material or be protected to prevent erosion.

j. Any materials used for temporary structures such as cofferdams, equipment pads, or temporary crossings, would be removed as soon as practicable, and the waterway would be restored to preconstruction contours.

k. Disturbance to riparian vegetation would be kept to a minimum during construction.

l. No activity shall be authorized under this General Permit which would likely directly or indirectly jeopardize the continued existence of a Federally-listed threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which would likely directly or indirectly destroy or adversely modify the critical habitat of such species. No activity shall be authorized under this General Permit which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. No activity shall be authorized under this General Permit which "may affect" essential fish habitat as identified under Magnuson-Stevens Fishery Conservation and Management Act, unless essential fish habitat consultation addressing the effects of the proposed activity has been completed.

m. Discharges would not restrict or impede the movement of aquatic species indigenous to the waters.

n. All work would be performed in a manner that would minimize increased turbidity of the water in the project area and otherwise avoid adverse effects on water quality and aquatic life especially during fish spawning season. This may require avoiding construction activities during the peak spawning months of April, May, and June.

o. The discharge would not adversely affect a public water supply intake or a National or State Fish Hatchery intake.

p. The discharge would not contain unacceptable levels of pathogenic organisms (as prescribed in standards set by the Mississippi Department of Environmental Quality) in areas used for water-contact sports.

q. The construction activity would not result in the permanent diversion or relocation of a stream or a river channel except where needed to align a waterway crossing to avoid potential damage to the roadway. In no case, would any realignment extend beyond 150 feet upstream and 150 feet downstream from the centerline of a crossing structure. The construction activity would result in neither stream flow impediment nor drain adjacent wetlands.

r. Authorizations under this General Permit would be valid for five (5) years from the date of the authorizing letter.

s. Current standards and practices would be used to determine what type drainage structure is required at a particular stream crossing (box culvert, bridge, etc.).

t. To minimize potential adverse impacts to wetlands within the right-of-way or associated with the project, the Mississippi Department of Transportation would incorporate into each project's design all practicable measures to:

(1) Minimize impact on hydrology in wetland areas.

(2) Minimize potential for toxic spills and leaching into wetland areas.

(3) Minimize discharge of materials, such as silt, into wetlands.

(4) Maintain adequate flow through wetlands by providing culverts, ditches, and other hydrologic structures.

(5) Provide berms, traps, or ditches to direct potential toxic spills away from wetlands.

(6) Provide for animal migration to and from wetland areas or habitat corridors.

(7) Provide erosion and sediment control features throughout the construction phase of a project which would minimize both short- and long-term impacts to water quality.

(8) Provide treatment facilities which may be required to treat highway runoff which would otherwise adversely affect wetlands.

(9) Provide contractual provisions for stopwork orders, project staging, and other specifications pertaining to minimizing impacts on wetlands and to onsite monitoring.

General Conditions:

a. 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.

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

c. This permit would not grant any property rights or exclusive privileges.

d. This permit would not authorize any injury to the property or rights of others.

e. This permit would not authorize interference with any existing or proposed Federal project.

f. 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.

g. In issuing individual authorizations under this General Permit, the Government will rely on the information and data which the permittee provides in connection with the 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.



h. This office may re-evaluate 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:

(1) Failure to comply with the terms and conditions of this permit.

(2) The information provided in support of a request for authorization proves to have been false, incomplete, or inaccurate (See g. above).

(3) Significant new information surfaces which was not considered in reaching the original public interest decision.

i. The General Permit is valid for five (5) years. At the end of that time, the cumulative environmental effects of completed work will be reviewed and reissuance of the permit may be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it may be modified or terminated at any time.

k. Authorization under this General Permit is valid until the General Permit expires. Activities authorized under this General Permit which are under construction, or that are under contract to commence by the expiration of this General Permit, will remain authorized provided the activity is completed within 12 months of the date of expiration.

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; or via email to: GeneralPermitReissuance@usace.army.mil).

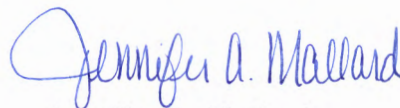
b. The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which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

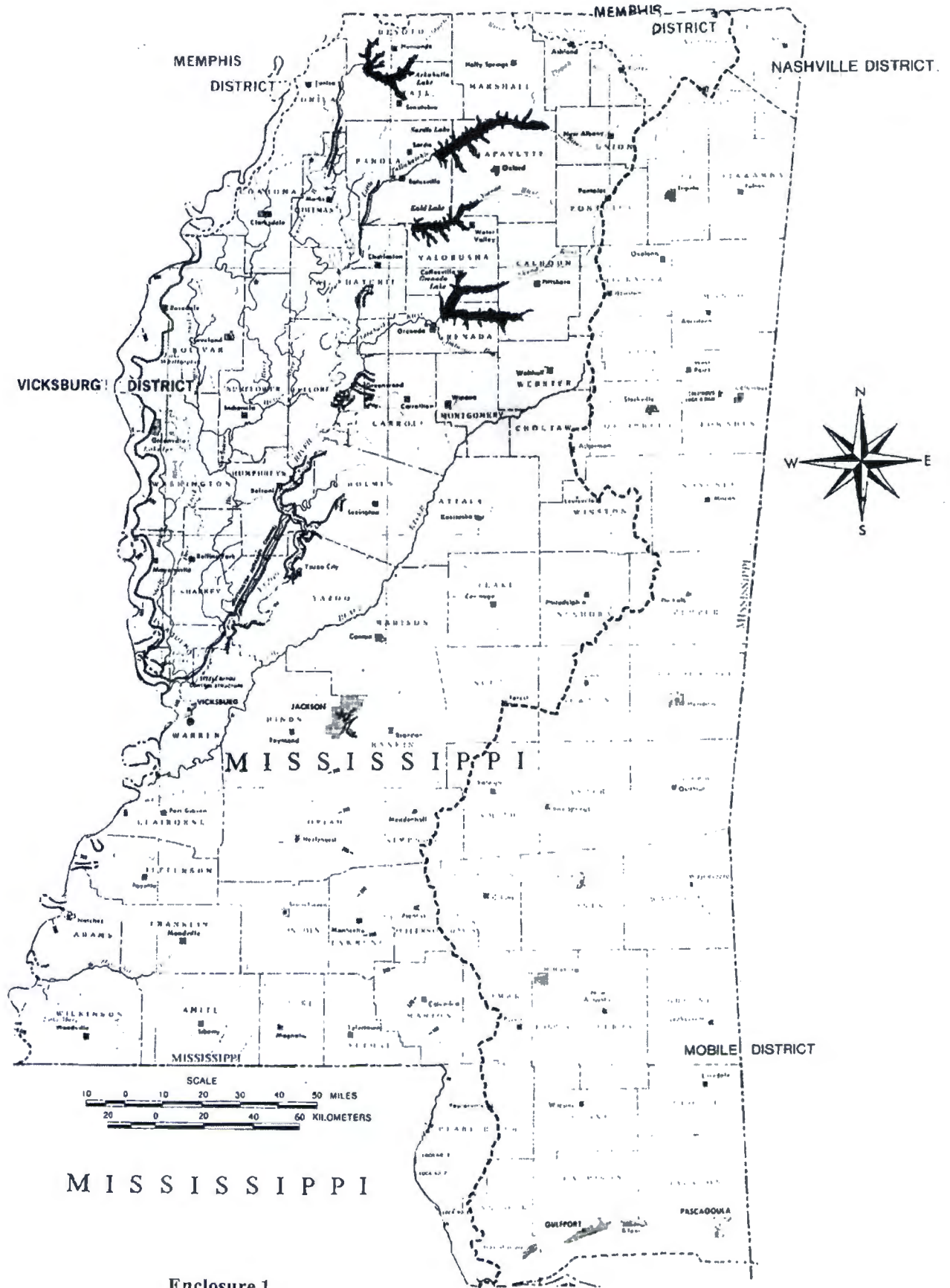
Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, 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 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, Mr. Anthony R. Lobred, 4155 Clay Street, Vicksburg, Mississippi 39183-3435; or email address: [GeneralPermitReissuance@usace.army.mil](mailto:GeneralPermitReissuance@usace.army.mil).



Jennifer A. Mallard  
Chief, Regulatory Branch



Enclosure 1