



STATE OF MISSISSIPPI

PHIL BRYANT

GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

GARY C. RIKARD, EXECUTIVE DIRECTOR

January 30, 2019

Certified Mail No. 7017 0530 0000 5971 7466

Ms. Jennifer Mallard
U.S. Army Corps of Engineers
Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Ms. Mallard:

Re: U. S. Army Corps of Engineers
Vicksburg District
General Permit 46, MDOT
Warren County
COE No. MVK20180808
WQC No. WQC2018047

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, Vicksburg District, an applicant for a Federal License or permit to conduct the following activity:

U.S. Army Corps of Engineers, Vicksburg District, General Permit 46: Proposed 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 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.

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 of the General Permit:

- 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 waterbodies 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 13th 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.

[MVK20180808, WQC2018047]

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

- 1. The Mississippi Department of Environmental Quality (MDEQ) shall be given a minimum 30-day commenting period for new alignment work that impacts more than three (3) acres of wetlands or 300 linear feet of stream.

2. Prior to the start of construction activities, coverage under a Stormwater Construction General NPDES Permit shall be obtained. No construction activities shall begin until such approvals are obtained.
3. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained.
4. All stream impacts (including streams identified as ephemeral by the U.S. Army Corps of Engineers and described as non-relatively permanent waters) shall be mitigated in kind with stream mitigation elements. In the event that stream mitigation is not available and alternate mitigation proposals are provided, a pre-construction notification shall be provided to MDEQ and 10 working days shall be allowed to provide comments.
5. A pre-construction notification shall be provided to MDEQ for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
 - a. Justification of why the impacts cannot be avoided;
 - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and
 - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.
6. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.
7. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If we can be of further assistance, please contact us.

Sincerely,



Krystal Rudolph, P.E., BCEE
Chief, Environmental Permits Division

KR: chb

cc: Tony Lobred, U.S. Army Corps of Engineers, Vicksburg District
Willa Brantley, Department of Marine Resources
David Felder, U.S. Fish and Wildlife Service
Molly Martin, Environmental Protection Agency

