STATE OF MISSISSIPPI

PHIL BRYANT

GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

GARY C. RIKARD, EXECUTIVE DIRECTOR

May 10, 2019

Certified Mail No. 7016 3010 0000 1327 5447
Ms. Jennifer Mallard
Chief, Regulatory Branch
U.S. Army Corps. of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, MS 39183-3435

Dear Ms. Mallard:

Re: US Army COE, Vicksburg District, General Permit 25
Warren County
COE No. MVK2019266
WQC No. WQC2019015

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, U.S. Army Corps. of Engineers, Vicksburg District, an applicant for a Federal License or permit to conduct the following activity:

> US Army COE, Vicksburg District, General Permit 25: Reissuance of Department of the Army General Permit No. 25, with modifications, for regulated activities including discharges of dredged and/or fill material in waters of the United States, associated with the construction of recreational boating facilities within the regulated jurisdiction of the Vicksburg District. This General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Construction, dredging, or fill operations which include regulated work and/or discharges of dredged or fill material into Section 10/404 or Section 404 regulated Waters of the United States (collectively hereafter referred to as: WOTUS) which are not specifically authorized by this General Permit are prohibited unless specifically approved by the District Engineer via separate authorization. Conformance with conditions contained in the General Permit would not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, an application for an individual

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permit will be required. 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. [MVK2019266, WQC2019015].

The following must be provided by the applicant in writing in request for authorization under the General Permit:

a. State the number of the General Permit under which the work will be conducted. (General Permit 25) (GP 25)

b. Statement that the work will be conducted in compliance with the terms and conditions of GP 25 and will not adversely impact adjoining properties.

c. A location description including: latitude and longitude; Section, Township, Range; County or Parish, and State; a plan-view (including a digital aerial overlay), and location map showing the proposed worksite.

d. Estimated starting and completion dates of the project.

e. Name, mailing address, telephone number, and email address of the party (person and agency) applying for authorization.

f. A description of the proposed activity and its purpose, including:

• drawings (plan and profile) of the proposed structure (see typical drawings, enclosure 2),
• elevations and/or indication of the ordinary high water mark (when available),
• dimensions (in feet), total area impacted (in acres for wetlands; in both acres and linear feet for streams), and,
• amounts of excavated and fill material (in cubic yards).

g. A delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations will be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the special aquatic sites, including wetlands, and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the application evaluation period will not start until the delineation has been submitted by the applicant or completed by the Corps, as applicable.

h. An informational narrative and/or list detailing:

• individual aquatic resource impacts (in acres for wetlands; in acres and linear feet for streams),
• total quantity of impacts for each resource type (e.g. emergent wetland, forested wetland, intermittent stream, etc.),
• all impact activities (discharge of dredged and/or fill material, conversion, etc.), impact duration (temporary or permanent),
• the latitude/longitude (approximate centerpoint) for each impact and,
• current site photos representative of the WOTUS to be impacted.

[NOTE: An Aquatic Resources Identification and Impacts Spreadsheet is available for use on the Vicksburg District's Regulatory Web Page]:
https://www.mvk.usace.army.mil/Missions/Regulatory/Permits/

i. A narrative describing how impacts to WOTUS were minimized to the maximum extent practicable. For projects that include adverse impacts to WOTUS, the complete application will include information on mitigation in all forms (i.e. avoidance, minimization, and compensation).

For projects with unavoidable adverse functional impacts greater than 0.10 acre to wetlands or greater than 300 linear feet of streams, the complete application will include a statement describing: how, if required , the compensatory mitigation requirement will be satisfied (either though purchase of mitigation credits from an approved mitigation bank or "in lieu fee" provider, or through permittee responsible mitigation); or explaining why the project-specific adverse effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. If the applicant proposes permittee responsible mitigation, the application will not be considered complete until the Corps receives an acceptable permittee responsible mitigation plan.

[NOTE: Information on the Vicksburg District's current mitigation requirements is available on the MVK Regulatory Web Page]:
https://www.mvk.usace.army.mil/Missions/Regulatory/Mitigation/

j. If another Federal agency is involved in the project through technical assistance, funding/grants, or other means: identify the agency; briefly describe the involvement of the agency; and provide a point of contact (name, phone number and email address).

k. For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the application must include the name(s) of those

endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.

l. For non-Federal permittees, if the activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the application must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act.

m. For work proposed: on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System; on a property/area owned or managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.), the applicant must submit with their request for authorization under this General Permit, the agency point of contact (including phone number, mailing address, and email address) and proof of initiation of the applicant's request for approval from the managing agency.

n. A description of the best management practices that will be used to minimize movement of disturbed soil(s) from the construction into adjacent WOTUS.

o. For activities affecting structures or works built by the United States: If a GP 25 activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a USAGE Federally authorized Civil Works project, the application must include a statement (and any associate documents) confirming that the project applicant has submitted a written request for Section 408 permission to the Vicksburg District office having jurisdiction over that USAGE project.

Special Conditions:

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

2. Wetland impacts from the proposed construction and fill activities would not exceed two acres.

3. Adequate best management practices would be required. All construction activities would be performed in a manner that will prevent off-site movement of disturbed soils, 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. The fill material would be compacted upon completion of construction. The site would be revegetated by sod, seed, or another acceptable method, as necessary, to restore cover and prevent erosion. In areas subject to currents, riprap could be used for slope protection.

4. Material used for fill could be obtained from onsite and/or offsite upland sources. Additional material could not be obtained from any WOTUS or any area which would affect an adjacent WOTUS.

5. Fill placed outside of the footprint of the structures authorized by this General Permit would be similar in nature to the existing substrate and would be confined to the minimum quantity necessary. The parking area would be the minimum size necessary to accommodate users of the facility. The access road would be aligned to minimize impacts to WOTUS.

6. The slope of the boat ramp would be designed to provide safe launching conditions.

7. All piers and docks, including floating docks, would be securely fastened to the bank/shoreline to mitigate against inadvertent release into a waterbody.

8. Construction and/or maintenance activities would be conducted during drawdown periods of lakes/reservoirs, when practicable, or during low flow periods of streams/rivers.

9. No activity that may adversely impact a site listed in or eligible for listing in the National Register of Historic Places, or a site that has previously been unevaluated, could be allowed by this General Permit. Additional fill material would not be taken from a known historical or archaeological site within or outside of regulated areas. If the permittee, during prosecution of activities authorized herein, inadvertently discovers or accidently destroys a cultural resource such as a cemetery, shipwreck, mound, historic structure, or archaeological site, within the area subject to Department of the Army jurisdiction, they would cease work in the immediate area and notify the District Engineer within 24 hours. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Federally recognized Tribe, would comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).

10. If damage to a revetment were to occur as a result of activities authorized in accordance with this General Permit, the permittee would be required to make necessary repairs at their own expense. These repairs would meet specifications designated by the District Engineer.

11 . Activities would not be authorized for activities proposed on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System, without the appropriate Federal or State authorization.

12. The regulated activity would not occur in a Coastal Zone Management Area without the appropriate State authorization indicating concurrence that the activity would be consistent with the State's Coastal Program (as per the provisions of the Coastal Zone Management Act). The coastal zone concurrence would be submitted with the request for authorization under this General Permit. Therefore, in order to be authorized by this General Permit for work in Hancock County, Mississippi, or St. Tammany Parish, Louisiana, persons planning work in these coastal areas would first send complete plans to the appropriate State agency at the applicable address below:

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

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

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

14. All excavated material not used as backfill would be placed in a non-jurisdictional area (i .e., upland) unless otherwise separately authorized. If dredged material would be placed in an upland contained disposal area and return water discharged back into waters of the United States, a separate Department of the Army authorization could be required (See Nationwide Permit No. 16).

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

16. The discharge would not contain unacceptable levels of pathogenic organisms in areas used for activities involving physical contact with the water.

17. The discharge would not occur in areas of concentrated shellfish production.

18. No activity could be authorized under this General Permit which would be likely to 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 Endangered Species Act (ESA), or which would directly or indirectly destroy or adversely modify the critical habitat of such species. No activity could 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.

19. Activities in WOTUS that may impact known wading bird rookeries would be avoided to the maximum extent practicable. The permittee would be responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee would be advised to contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.

20. The construction activity would not result in the relocation or blockage of a natural stream or river channel or adversely impact or drain wetlands and/or waters of the United States.

21. No sewage, oil, refuse, or other pollutants would be discharged into the waterbody.

22. Projects located on property encumbered by a Natural Resources Conservation Service (NRCS) Wetlands Reserve Program (WRP) easement would not be authorized without written release/approval from the NRCS. Under such situations, the application would not be considered complete until the Corps is provided written documentation of release/approval from the agreement by the NRCS.

23. Activities would not be authorized on a property/area managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.) without documented approval (e.g. special use permit, waiver, etc.) by the managing agency.

24. Authorizations for this General Permit would not be granted to an applicant who is in noncompliance with a Department of the Army permit until such noncompliance has been resolved.

25. Conditions on the water quality certification issued from the State in which the work is proposed would be incorporated by reference. Enforcement actions resulting from noncompliance with these conditions could be initiated by the State or the Environmental Protection Agency.

26. The permittee would return a Certification of Compliance after completing construction of the authorized activity.

27. An activity that requires section 408 permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project (a "USACE project") would not be authorized by GP 25 until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written GP 25 authorization.

28. Authorized discharges would not occur in sites when such discharge would result in a more than minor adverse effect to tidal waters and/or tidally-influenced wetlands.

General Conditions:

A. The activity authorized by the permit would be maintained in good condition and in conformance with the terms and conditions of the permit. The permittee would not be relieved of this requirement if the permitted activity is abandoned. However, a good faith transfer to a third party in compliance with General Condition "b.", below, would be acceptable. Should the permittee desire to abandon the authorized activity without a good faith transfer, or should the permittee wish to cease to maintain the authorized activity, the permittee would obtain a modification of the authorization from this office, which could require restoration of the area.

B. If the property associated with the authorization under this General Permit is sold, the permittee would notify this office to ensure that the authorization is transferred to the new owner.

C. Representatives from this office would be allowed 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 would not obviate the need to obtain other Federal, State, or local authorizations required by law.

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

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

G. This permit would not authorize interference with, or damages to, any existing or proposed Federal Civil Works project. An activity that requires Section 408 permission because it will alter or temporarily or permanently occupy or use a USAGE federally authorized Civil Works project (Activities Affecting Structures or Works Built by the United States, 33 U.S.C. 408) would not be authorized by GP 25 until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USAGE Civil Works project, and the District Engineer issues a written GP 25 authorization.

H. In issuing this permit, the Federal Government would 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 would 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 could be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

J. The permittee would immediately notify the Corps of any unforeseen activities, including emergency activities, that are directly or indirectly associated with the authorized activity and that may require separate authorization.

K. The General Permit would be valid for five years from its effective date. At the end of that time, the cumulative environmental effects of completed work would be reviewed and reissuance of the permit would be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it could be modified or terminated at any time.

L. Authorization under this General Permit would be valid until the General Permit expires. Activities which are under construction, or that are under contract to commence in reliance upon this General Permit, would remain authorized provided the activity is completed within 12 months of the date of the authorization.

[General Permit – 25, WQC2019015].

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 Department of Environmental Quality (MDEQ) shall be provided a copy of the final permit and associated enclosures and attachments.

2. The permittee obtaining authorization under General Permit-25 shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.

3. All fill material and excavation areas shall have side slopes of at least 3:1 (horizontal:vertical) and shall be immediately seeded, stabilized and maintained.

4. Appropriate best management practices (BMPs) shall be properly installed and maintained to prevent the movement of sediment off-site and into adjacent drainage areas. Special care shall be taken prior to and during construction to prevent the movement of sediment into adjacent avoided wetland areas. In the event of any BMP failure, corrective actions shall be taken immediately.

5. Prior to the start of construction, for projects greater than five (5) acres of total ground disturbance including clearing, grading, excavating or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Large Construction Stormwater General NPDES Permit. Prior to the start of construction, for projects greater than one (1) to less than five (5) acres of total ground disturbances including clearing, grading, excavating or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Small Construction Stormwater General NPDES Permit. No construction activities shall begin until such approvals are obtained.

6. 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.

7. 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.

8. Turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units.

9. 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

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

KR: mhg

cc: Spencer Dixon, U.S. Army Corps of Engineers, Vicksburg District
Willa Brantley, Department of Marine Resources
Paul Necaise, U.S. Fish and Wildlife Service
Molly Martin, Environmental Protection Agency
Ms. Janet Riddell, Office of Budget & Fund Management