DEPARTMENT OF NATURAL RESOURCES
OFFICE OF COASTAL MANAGEMENT
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COASTAL USE PERMIT/CONSISTENCY DETERMINATION

Coastal Use Permit – General Permit-8 (GP-8) (Amended)

Name and Address: Louisiana Department of Natural Resources; Office of Coastal Management P.O. Box 44487, Baton Rouge, LA 70804-4487

LOCATION: In the Louisiana Coastal Parishes of Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne and Vermilion.

DESCRIPTION: This Amended General Permit provides for the construction of wave dampening fences in shallow water locations. Individual fence units may vary in overall dimensions with maximum segment length not to exceed 150 feet, width not to exceed 12 feet and height not to exceed 6 feet. Units to be constructed of treated lumber, galvanized fencing or other suitable, Office of Coastal Management approved materials. Christmas trees or other clean suitable brush may be used to fill fence units when design requires.

AMENDMENT: Correction to language in **II. Operating Conditions – A.**

This Amended permit supersedes the original permit which was issued July 16, 2012.

In accordance with the rules and regulations of the Louisiana Coastal Resources Program and Louisiana R.S. 49, Sections 214.21 to 214.41, the State and Local Coastal Resources Management Act of 1978, as amended, the permittee agrees to:

1. Carry out, perform, operate and maintain the use in accordance with the permit conditions, plans and specifications approved by the Department of Natural Resources. Please be advised that a separate coastal use permit may be required for maintenance activities.
2. Comply with any permit conditions imposed by the Department of Natural Resources.
3. Adjust, alter, or remove any structure or other physical evidence of the permitted use if, in the opinion of the Department of Natural Resources, it proves to be beyond the scope of the use as approved, or is abandoned.
4. Provide, if required by the Department of Natural Resources, an acceptable surety bond in an appropriate amount to ensure adjustment, alteration, or removal should the Department of Natural Resources determine it necessary.
5. Hold and save the State of Louisiana, the local government, the department, and their officers and employees harmless from any damage to persons or property which might result from the use, including the work, activity, or structure permitted.
6. Certify that the use has been completed in an acceptable and satisfactory manner and in accordance with the plans and specifications approved by the Department of Natural Resources. The Department of Natural Resources may, when appropriate, require such certification to be given by a registered professional engineer.
7. All terms of the permit shall be subject to all applicable federal and state laws and regulations.
8. This amended permit, or a copy thereof, shall be available for inspection at the site of work at all times during operations.

9. The permittee will notify the Office of Coastal Management (OCM) of the date on which initiation of the permitted activity described under the "Coastal Use Description" began. The permittee shall notify the OCM by mailing the enclosed green initiation card on the date of initiation of the coastal use.
10. The following special conditions must also be met in order for the use to meet the guidelines of the Coastal Resources Program:

I. General Conditions

A. The Secretary of DNR has determined that full individual permit processing by OCM is in the public interest in order to determine whether proposed activities qualify for authorization under the authority of this Amended General Permit. This full individual permit processing will consist of review by the staff of OCM of each authorization request. Therefore, pursuant to the Rules and Procedures for Coastal Use Permits, Title 43, Subpart 723.C.3.a, of the Louisiana Code of Administrative Procedure, an application fee will be assessed for activities proposed for authorization under the authority of this Amended General Permit. If appropriate, permit processing fees and appropriate mitigation plan processing fees also will be assessed.

B. A standard Joint Application Form shall be completed and submitted to OCM along with drawings depicting the location and character of work proposed for approval under the authority of this Amended General Permit. The applicant shall submit a complete application packet (forms and plats) to OCM. The application shall be accompanied by the application fee in effect at the time of application submittal. This Amended General Permit shall not apply if the proposed work is determined not to meet the criteria. The applicant shall be advised within five (5) calendar days of receipt of the complete application that the application shall be processed as an individual CUP if the determination is made that the proposed activity is not consistent with this Amended General Permit.

C. Individual written approvals from OCM must be obtained prior to the commencement of any individual activity proposed under the authority of this Amended General Permit.

D. Should OCM deem that they may have an interest in the project, prior to issuance of authorization for an individual activity under the authority of this Amended General Permit, the following agencies shall have a five (5) calendar day period to review the proposed activity: the Louisiana Departments of Wildlife and Fisheries; Health and Hospitals; Environmental Quality; Office of Coastal Protection and Restoration; Culture Recreation, and Tourism; Transportation and Development; State Land Office; and the approved Parish Local Program, if applicable. OCM may issue authorization for the proposed activity after the designated review period or after receiving notification by each of the agencies, either in writing or by telephone, that there are no objections to the proposed activity. However, the final decision for the issuance of authorization for individual activities under the authority of this Amended General Permit, to issue approval with modifications or additional Operating Conditions, or to deny approval for the proposed work, shall be made by the Secretary of DNR, or his designee.

E. Should it be deemed in the public interest, the Secretary shall deny authorization to perform work under the authority of this Amended General Permit and require the applicant to obtain an individual CUP for the proposed activity.

F. Unless otherwise specified in the Amended General Permit or specific work approval, authorization for work under the authority of this Amended General Permit shall expire if the work is not initiated and completed within two (2) years from the date of issuance of the original written individual approval. Initiation of the Coastal Use, for purposes of this Amended General Permit, means the actual physical beginning of the use or activity for which the permit is required. Initiation does not include preparatory activities, such as movement of equipment onto the Coastal Use site, expenditure of funds, contracting out of work, or performing activities which by themselves do not require a permit. In addition, the permittee must, in good faith and with due diligence, reasonably progress toward completion of the project once the Coastal Use has been initiated. All activities authorized under the authority of this General Permit must be completed within 90 days of initiation of the work, with a one-time mobilization, unless a different time schedule is specifically approved by OCM.

G. The term to initiate and complete an individual authorization issued under the authority of this Amended General Permit may be extended for up to an additional two (2) years beyond the initial two (2) year term. Extension requests shall be in the form of a written letter which shall refer to the original coastal use permit application number and specifically state that a permit extension is desired. Submission of extension requests via the online application system also is acceptable. A nonrefundable extension request fee in the amount of $80 shall be included with such a request, and the request must be received by the Permits, Mitigation and Support Division no sooner than 180 days and no later than 60 days prior to the expiration of the individual authorization in question. Requests received later than 60 days prior to the expiration date of the permit shall be eligible for consideration for extension, however a permittee who fails to make a timely request for an extension shall not engage in any activity requiring a coastal use permit past the original permit expiration date until an extension of the lapsed permit or a new permit is granted.

H. The Term of this Amended General Permit shall be five (5) years from the date of issuance, except as provided for in LAC 43 Subpart 723.E.3.b.

I. The permittee shall notify OCM of commencement of activities which are authorized under the authority of this Amended General Permit. The permittee shall notify OCM by either providing the information in writing or entering the information through the online system, within three (3) days of the date of initiation of the authorized work.

J. Issuance of approval under the authority of this Amended General Permit does not relieve the permittee of obtaining other lawfully required permits (local, state, or federal) before commencing work.

K. The permittee shall allow representatives of OCM or authorized agents to make periodic, unannounced inspections to assure the activity is being performed in accordance with the conditions of the permit.

L. Work carried out under the authority of this Amended General Permit shall conform to all appropriate state and federal safety regulations.

M. An authorization issued under the authority of this Amended General Permit may not be transferred to another party without giving prior notice to, and receiving written approval from, the OCM Administrator. A transfer form can be downloaded at http://dnr.louisiana.gov/assets/docs/coastal/cup/transfer.pdf , or can be provided upon request.

N. Work carried out under the authority of this Amended General Permit shall be performed in full compliance with the rules and regulations of DNR which exist at the time of approval for that work.

O. Permittee shall provide legal representation and indemnification to State agencies for any and all lawsuits and/or claims whether they be legal or otherwise that may be filed or made against State agencies as a result of the activities by Permittee.

II. Operating Conditions

A. All logs, stumps and other debris encountered during dredging activities shall be removed from the site during or immediately after the activity and disposed of in accordance with all applicable laws and regulations.

B. Spoil shall not be placed in or block any tidal sloughs.

C. This Amended General Permit does not convey any property rights, mineral rights, or exclusive privileges, nor does it authorize injury to property.

D. If archaeological, historical or other cultural resources are encountered during activities authorized under the authority of this Amended General Permit, work shall cease and the permittee shall immediately notify the Division of Archaeology, Louisiana Department of Culture, Recreation, and Tourism (CRT) (P. O. Box 44247, Baton Rouge, LA 70804) and OCM (P. O. Box 44487, Baton Rouge, LA 70804-4487, (225) 342-7591). Work may not resume until written approval is obtained from CRT.

E. The permittee shall insure that all sanitary sewage and/or related domestic wastes generated during the subject project activity and at the site, thereafter, as may become necessary shall not be discharged into any of the streams or adjacent waters of the area without authorization from DHH and/or LDEQ or, in the case of total containment, shall be disposed of in approved sewerage and sewage treatment facilities, as is required by the State Sanitary Code and LDEQ regulations. Such opinion as may be served by those comments offered herein shall not be construed to suffice as any more formal approval(s) which may be required of possible sanitary details (i.e. provisions) scheduled to be associated with the subject activity. Such shall generally require that appropriate plans and specifications be submitted to the Department of Health and Hospitals (DHH) for purpose of review and approval prior to any utilization of such provisions.

F. The permittee shall comply with all applicable laws regarding the need to contact the Louisiana One Call System (811) or online at http://www.laonecall.com/how_to_use_us.htm to locate any buried cables and pipelines.

G. The permittee is subject to all laws related to damages which are demonstrated to have been caused by the permitted activities.

H. All activities involving any discharge of pollutants must be consistent with applicable water quality standards and any necessary permits issued through the Department of Environmental Quality/Office of Water Resources must be obtained.

I. Dredging and/or filling activities authorized under the authority of this Amended General Permit shall not exceed the volume specified in the project description of the individual authorization.

J. When adverse impacts to vegetated wetlands may result from the proposed activity, and/or when otherwise determined necessary by OCM, the applicant and OCM shall negotiate, in consultation with the owner(s) of land on which the permitted activity is proposed to occur, and those other natural resource agencies deemed appropriate by OCM, a compensatory mitigation plan, and the applicant shall implement that plan. That plan shall fulfill the requirements of Louisiana Revised Statute 49:214.41 and those rules and regulations adopted thereunder. Unless otherwise stated the expiration of the term of this Amended General Permit, or the revocation or expiration of approval to perform work under the authority of this Amended General Permit, shall not absolve the permittee, its transferees, or assignees from the obligation and responsibility of implementing and maintaining the compensatory mitigation plan.

K. If applicable, the requirement for compensatory mitigation for impacts to wetlands resulting from the referenced project may be determined after one full growing season (March 1 to November 1) following the completion of the permitted activities. This assessment shall include both primary impacts and secondary impacts which may result from the permitted activities.

   If OCM determines that compensatory mitigation is required, permittee shall submit a compensatory mitigation plan for approval within 30 days of notification of the compensatory mitigation requirements by OCM. All necessary approvals shall be obtained for the compensatory mitigation plan and the plan shall be implemented as directed by OCM. Permittee should be aware that compensatory mitigation projects may be required to be maintained for as many as 20 years for marsh mitigation projects and 50 years for forested wetland mitigation projects. A processing fee will be assessed for the determination of compensatory mitigation requirements and evaluation of the proposed compensatory mitigation plan in accordance with LAC Title 43, Part I, Chapter 7, §724.D. This fee shall apply regardless of which compensatory mitigation option is selected and does not include the cost incurred to implement the required compensatory mitigation.

L. Individual activities authorized under the authority of this Amended General Permit and occurring on LDWF identified Public Oyster Seed Grounds or Reservations shall be conditioned as agreed upon per the Memorandum of Understanding between the LDNR and LDWF, and all subsequent amendments to said document. This document can be found at http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=96.

M. Individual activities authorized under the authority of this Amended General Permit shall be carried out on a one-time basis, during a one-time mobilization, except in situations where sequential phases (e.g., use of different types of dredging techniques, or phased construction) may be specified in the work statement of the individual authorization. Additional authorizations may be necessary for maintenance activities or work beyond the scope of the authorized activities.

N. If the project authorized under the authority of this Amended General Permit is located on the aboriginal homelands of the Chitimacha Tribe of Louisiana and/or at any time during the course of work any traditional cultural properties are discovered, the permittee shall immediately contact the Chitimacha Tribe of Louisiana, P.O. Box 661, Charenton, LA 70523 - phone (337) 923-7215.

III. This Amended General Permit does not apply in the following locations without prior written authorization from the appropriate agencies:

A. Work under the authority of this Amended General Permit shall not be approved in the following areas, unless the applicant first provides a letter of no objection from the Louisiana Department of Wildlife and Fisheries:

1. Within the boundary of a currently productive oyster seed ground, oyster seed reservation or public oyster harvesting area; or

2. Within the boundaries of a LDWF owned or managed Wildlife Management Area or Wildlife Refuge.

3. Within 1,000 feet, or other distance deemed appropriate by LDWF, of a known bald eagle nest.

4. Within 1,500 feet, or other distance deemed appropriate by LDWF, of a known bird rookery area.

5. Within the officially designated critical habitat of a threatened or endangered species.

B. Work under the authority of this Amended General Permit shall not be approved in the following areas, unless the applicant first provides a letter of no objection from the Louisiana Department of Culture, Recreation, and Tourism:

1. Within a State Park, State Recreation Area or State Commemorative Area; or

2. Within any known historic or archaeological site or within the boundaries of an historical district.

C. Within 1,000 feet of an established navigation channel or fairway constructed, owned, operated, or maintained by federal, state or local governments, or with federal, state or local government funds, without written consent of each appropriate agency or governing body. An authorization request that is not accompanied by such written permission shall be processed as an application for an individual CUP. If, however, there is a physical barrier at the project site that isolates the Coastal Use from the navigation channel or fairway and effectively prevents any interchange between the two, this restriction does not apply.

D. Within 1,500 feet of the Mississippi River or Atchafalaya River levees or within 300 feet of all other levees or other flood control structures which are owned, operated or maintained by the federal government, or with federal funds, without the written consent of each appropriate agency or governing body.

E. Within 1,000 feet of levees or other flood control facilities constructed, owned, operated or maintained by state or local governments, or with state or local government funds, without the written consent of each appropriate agency or governing body.

F. Within 1,500 feet of a barrier island, barrier island feature, chenier or other coastal feature without the approval of the appropriate resource agencies that OCM determines to have programmatic interests.

IV. This Amended General Permit does NOT apply in the following situations:

A. Within 1,000 feet of an area determined to be a unique ecological feature by the Secretary of DNR.

B. Within Special Significance Areas designated pursuant to R.S. 49:214.41(F) and those rules and regulations adopted thereunder, where applicable.

C. Within the boundaries of a national park or monument, national wildlife refuge or established buffer zone for any such national site.

V. Special Conditions

A. Vessels and other equipment used during the installation of fences adjacent to shorelines shall have draft no more than 24 inches. Vessels and other equipment used during the installation of wave dampening fences in open water areas shall have drafts which allow a minimum of one (1) foot bottom clearance during low tide conditions.

B. No wheeled/tracked equipment shall be allowed on vegetated marsh during construction.

C. Gaps of at least six (6) feet will be left between each section of fence constructed under the authority of this Amended General Permit. This condition may be waived on a project specific basis if agreement can be reached with each of the commenting agencies (see General Condition D in Part I, above).

D. Any safety lights prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense.

E. Work authorized under the authority of this Amended General Permit must not interfere with the public's right to free navigation on all navigable waters on the State and of the United States.

F. In order to protect the State's interests in navigable lakes, bays and streams, the following four items shall be performed by the permittee in conjunction with each planned construction location and submitted to the Division of Administration, State Land Office:

1. The location of the shoreline shall be documented as it exists at the time the project is initiated.

2. Any accretion or erosion of the shoreline shall be well documented and monitored.

3. The adjacent landowners shall be notified of the State of Louisiana's claim to the subject waters and accretions thereto, including mineral rights.

4. Authorization to conduct work under the authority of this Amended General Permit will not be issued until a Class B Permit has been obtained from the State Land Office, should one be required.

G. Should it be deemed necessary by OCM, upon abandonment of a site, the area shall be restored to a condition that is satisfactory to the OCM/PMD Administrator. Such restoration may include, but is not limited to, the removal of all structures, non-biodegradable components and underwater obstructions. The permittee shall make such changes in the project concerned or in the arrangement thereof as may be necessary to satisfactorily meet the restoration requirements of OCM and shall bear the cost thereof.

H. This Amended General Permit shall not apply to any area that crosses any navigable waterway, stream, tributary, tidal slough or canal.

I. This Amended General Permit shall not apply to any area that may adversely impact submerged grasses.

**********END OF CONDITIONS**********

By accepting this amended permit the permittee agrees to its terms and conditions.

I affix my signature and issue this amended permit this 26th day of October, 2012.

DEPARTMENT OF NATURAL RESOURCES

Karl L. Morgan

Karl L. Morgan, Administrator
Office of Coastal Management

This agreement becomes binding when signed by the Administrator of the Office of Coastal Management, Department of Natural Resources.