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NCBC GULFPORT
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LETTER AND COMMENTS FROM U S ARMY REGARDING NATIONWIDE PERMITS
REQUEST NCBC GULFPORT MS
6/4/2009
U S ARMY CORPS OF ENGINEERS



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

June 4, 2009

Coastal Branch
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit Number SAM-2009-00785-CRO,
Naval Construction Battalion Center (11th @ WH225, Project # 002-20090416), Gulfport,
Harrison County, Mississippi

Naval Construction Battalion Center (NCBC)
Attn: Mr. Jeff Muehlmann
2401 Upper Nixon Avenue
Gulfport, MS 39501

Dear Mr. Muehlmann:

This letter is in response to your request for a Department of the Army (DA) permit for bank stabilization associated with a drainage feature. It has been assigned file number SAM-2009-00785-CRO, which should be referred to in all future correspondence with this office. The project is located at 8th and Colby (Lat 30° 22'58.43" Lon 89° 08'02.78") on the NCBC in Gulfport, MS.

Department of the Army permit authorization is necessary because your project would involve the discharge of fill material into waters of the U.S. under our regulatory jurisdiction.

Based upon the information and plans you provided, we hereby verify that the work described above, which would be performed in accordance with the enclosed plans and drawings, is authorized by Nationwide Permit (NWP) No. 13, Bank Stabilization, in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions are available at www.sam.usace.army.mil/RD/reg.

You must comply with all terms and conditions associated with NWP No. 13, as well as with the following special conditions;

- a. You shall comply with all the terms and conditions of the Mississippi Department of Environmental Quality, Office of Pollution Control, Section 401 Certification, and the Mississippi Department of Marine Resources, Coastal Program consistency determination.
- b. Best management practices shall be implemented to minimize erosion, siltation and damage to adjacent wetlands and waters of the United States. Appropriate erosion and siltation control measures must be used and maintained in effective operating condition before and during

construction. All temporary erosion control features shall remain in place until permanent stabilization measures have been completed and have become fully effective.

c. Only suitable material free of waste, metal and organic trash, unsightly debris, etc., may be used as fill and material discharged must be free from toxic pollutants in toxic amounts.

d. The disposal of trees, brush and other debris in any stream corridor, wetland or surface water is prohibited.

e. All excavation and fill activities shall be performed in a manner that minimizes disturbance and turbidity increases in "waters of the United States" and wetlands; and shall be retained in a manner to preclude its erosion into any adjacent wetlands or waterway.

f. Pre-construction hydrology shall be maintained. The project shall be designed and constructed to prevent hydrological modification to the surrounding area. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Project construction shall be conducted in such a manner the passage of normal and expected high flows of surface water runoff outside the project boundaries is not restricted or otherwise altered.

g. The permittee will contact the community's designated officials responsible for FEMA floodplain regulation enforcement to ensure compliance with all floodplain ordinances and safety precautions.

h. The enclosed yellow "Notice of Authorization" must be conspicuously displayed at the work site during construction until the project has been completed.

i. The project must be constructed in accordance with the description/plans presented.

This verification is valid for two years from the date of issue (Expires June 4, 2011) unless the NWP is modified, suspended, or revoked. All of the existing NWPs will expire on **March 18, 2012**. If you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

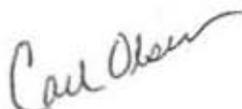
The statements contained herein do not convey any property rights, or any exclusive privileges and does not authorize any injury to property or obviate the requirements to obtain other local, State or Federal assent required by law. Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

Please note, NWP General Condition 26 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the

completed work and any required mitigation. Enclosure 1, attached, is the form you must complete and return to us to satisfy this requirement. The certification must be provided within five days of completion of the authorized work.

Please contact me at (228) 523-4116 if you have any questions. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you're there. Your responses are appreciated and will allow us to improve our services.

Sincerely,



Carl Olsen
Project Manager
Coastal Branch
Regulatory Division

Enclosures

When the structures or work authorized by this nationwide permit, SAM-2009-00785-CRO, are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE)

(DATE)

Enclosure 1



**US Army Corps of Engineers
Mobile District**

Permit Number: SAM-2009-00785-CRO

Name of Permittee: Naval Construction Battalion Center

Date of Issuance: June 4, 2009

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Mobile District
Regulatory Division
Attn: Carl Olsen
Coastal Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and the required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): **October 2008**

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
TED INGRAM
NEPA Program Manager
NCB Gulfport

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Mobile, NEBC (11th @ WH225) SAM-2009-00785-CRD

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State: MS County/parish/borough: Harrison City:
Gulfport

Center coordinates of site (lat/long in degree decimal format): Lat. *30° 22' 58.43" N*

Pick List, Long. ° Pick List. *Long 89° 08' 02.78" W*

Universal Transverse Mercator:

Name of nearest waterbody: Long Beach Canal

Identify (estimate) amount of waters in the review area:

Non-wetland waters: linear feet: width (ft) and/or acres.

Cowardin Class:

Stream Flow:

Wetlands: acres.

Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: Long Beach Canal

Non-Tidal: Seabee Lake

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date:

Field Determination. Date(s): 4/9/2009

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or

to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply)

- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Office concurs with data sheets/delineation report.

Office does not concur with data sheets/delineation report.

Data sheets prepared by the Corps:

Corps navigable waters' study:

U.S. Geological Survey Hydrologic Atlas:

USGS NHD data.

USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name:

USDA Natural Resources Conservation Service Soil Survey. Citation:

National wetlands inventory map(s). Cite name:

State/Local wetland inventory map(s):

FEMA/FIRM maps:

100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

Photographs: Aerial (Name & Date):

or Other (Name & Date):

Previous determination(s). File no. and date of response letter:

Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Carl Olson 6/4/2009

[Signature]

Signature and date of
Regulatory Project Manager
(REQUIRED)

Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1				0.1 acre	section 10 – tidal
2				100 linear feet	section 10 – non-tidal
3				15 square feet	non-section 10 – wetland
4				0.01 acre	non-section 10 – non-wetland