



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

December 1, 2010

REPLY TO
ATTENTION OF:

Evaluation Section

SUBJECT: Permit Application – SWG-2009-01139

Texas Parks and Wildlife Department
1502 FM 517 East
Dickinson, Texas 77539-8647

Gentlemen:

Enclosed for your review and signature are two copies of an initial proffered permit for work in waters of the United States.

Also enclosed is a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you object to the terms and conditions of this initial proffered permit, you may request that we modify it accordingly (see section titled "Initial Proffered Permit" on the NAP). Your request must be received at the above letterhead address no later than sixty (60) days from the date of the NAP. It is not necessary to submit an RFA form to us if you accept this permit.

If you accept the initial proffered permit, sign and date both copies in the spaces provided. Within ten days, both original copies of the accepted permit should be returned to us for approval, after which one copy of the signed permit will be returned to you. The permit is not valid until signed by us.

Sincerely,

A handwritten signature in cursive script that reads "Janet Thomas Botello".

Janet Thomas Botello
Leader, Central Evaluation Unit

Enclosures



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GALVESTON DISTRICT, CORPS OF ENGINEERS
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Evaluation Section

SUBJECT: Permit Application – SWG-2009-01139

Texas Parks and Wildlife Department
1502 FM 517 East
Dickinson, Texas 77539-8647

Gentlemen:

The above numbered permit has been approved and a signed copy is enclosed for your retention.

Also enclosed is a copy of "Notice to Permittee" which provides important information for permit administration. You should notify the District Engineer, in writing, upon completion of the authorized work. A pre-addressed postcard has been enclosed for your convenience. To assist us in improving our service to you, please complete the survey found at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink that reads "Janet Thomas Botello".

Janet Thomas Botello
Leader, Central Evaluation Unit

Enclosures

Copies Furnished:

Commander (dpb), Eighth Coast Guard District, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana 70130-3396 w/encl

Director, National Ocean Service, Coast & Geo. Sur., Mapping & Charting Branch, Source Data Unit, Attn: N/CG2211, Station 7317, SSMC3, 1315 East-West Highway, Silver Spring, Maryland 20910-3233

DEPARTMENT OF THE ARMY PERMIT

Permittee Texas Parks and Wildlife Department

Permit No. SWG-2009-01139

Issuing Office Galveston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To create an artificial reef by placing concrete culverts, obsolete oil and gas production structures, obsolete or surplus vessels and other approved artificial reef material within the confines of a designated 2640-foot by 2640-foot area. The project will be conducted in accordance with the attached plans in 2 sheets.

Project Location: The project site is located in the Gulf of Mexico, Brazos 439 OCS Block in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Matagorda SW, Texas. Approximate UTM Coordinates in NAD 83 (meters): Zone 15; Easting: 227783 Northing: 3157622.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. 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.

Special Conditions:

The permittee understands and agrees that if future operations by the United States require the removal, relocation or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate or alter the structural work or obstructions caused thereby without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Further Information:

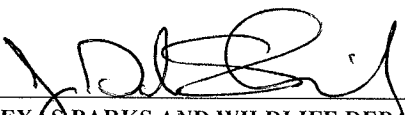
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - () Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. 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.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- 5. Reevaluation of Permit Decision. This office may reevaluate 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:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.


Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



TEXAS PARKS AND WILDLIFE DEPARTMENT
(PERMITEE)
J. DALE SHIVELY

1 DEC 2010
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)
JANET THOMAS BOTELLO, LEADER
CENTRAL EVALUATION UNIT
FOR COLONEL CHRISTOPHER W. SALLESE

1 December 2010
(DATE)

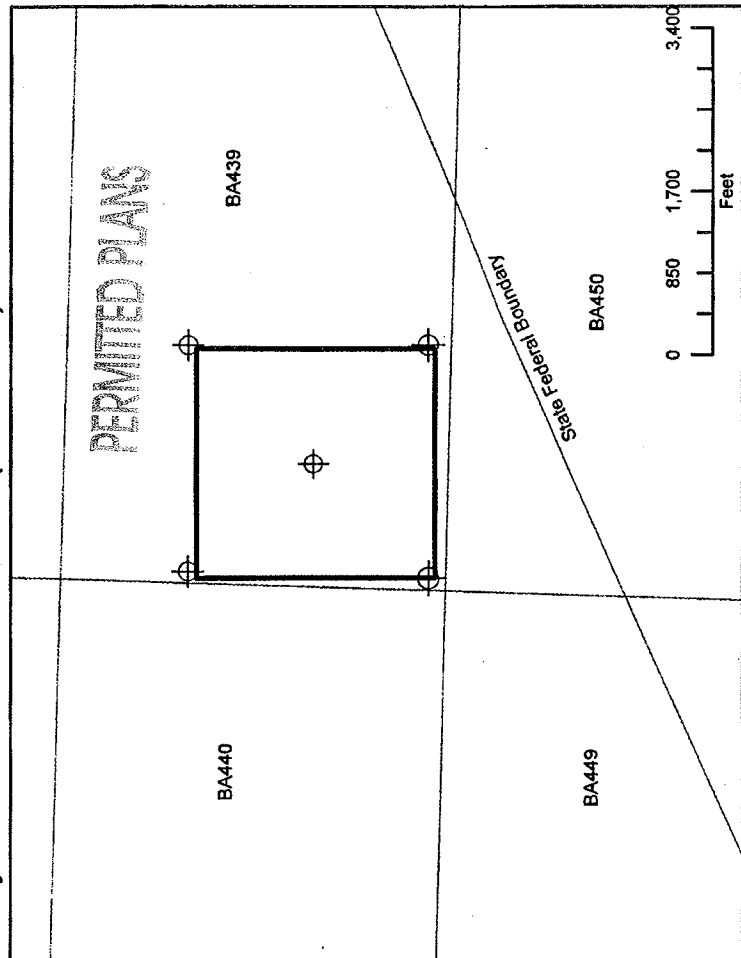
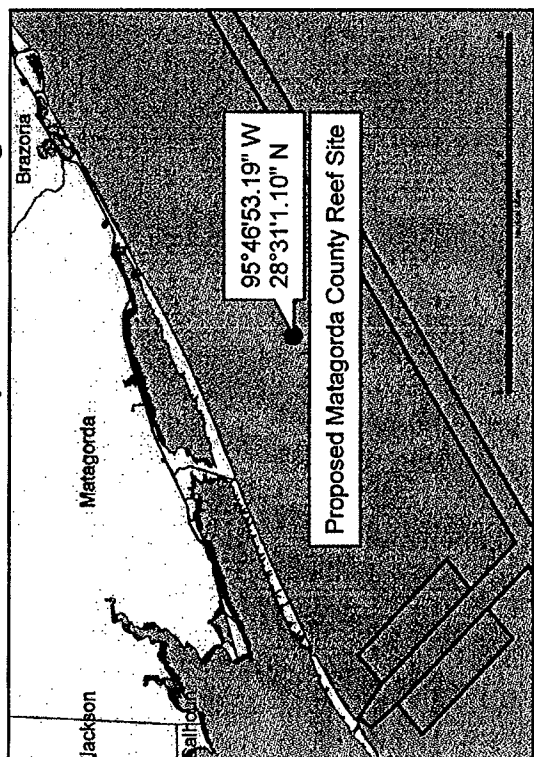
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated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

(TRANSFEREE)

(DATE)

Proposed Matagorda County Artificial Reef Site (BA-439)

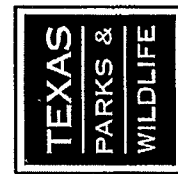
MAR 04 2010



Nearest Point to Point Distances:
 Safety Fairways: 7.0 Nautical Miles
 Oil and Gas Pipelines: 5,230 Feet
 State and Federal Boundary: 0.1 Nautical Miles
 Obstruction or Platforms: 1.7 Nautical Miles

| Depth (feet) | DMS 83_X | DMS 83_Y | DMS 27_X | DMS 27_Y | SPSC 83_X | SPSC 83_Y | SPSC 27_X | SPSC 27_Y |
|--------------|------------------|------------------|------------------|------------------|-------------|--------------|-------------|------------|
| Midpoint | 95° 46' 53.19" W | 28° 31' 1.10" N | 95° 46' 52.33" W | 28° 31' 0.13" N | 3001990.819 | 13386137.594 | 3033590.365 | 262698.673 |
| NW Corner | 95° 47' 7.47" W | 28° 31' 14.73" N | 95° 47' 6.60" W | 28° 31' 13.76" N | 3000680.096 | 13387478.537 | 3032279.633 | 264039.589 |
| NE Corner | 95° 46' 38.16" W | 28° 31' 14.03" N | 95° 46' 37.30" W | 28° 31' 13.05" N | 3003295.415 | 13387479.095 | 3034894.958 | 264040.203 |
| SE Corner | 95° 46' 38.81" W | 28° 30' 47.49" N | 95° 46' 37.95" W | 28° 30' 46.51" N | 3003311.078 | 13384798.009 | 3034910.633 | 261359.116 |
| SW Corner | 95° 47' 8.33" W | 28° 30' 48.22" N | 95° 47' 7.47" W | 28° 30' 47.24" N | 3000676.530 | 13384799.199 | 3032276.080 | 261360.249 |

Geographic Coordinates (Degrees Minutes Seconds) and State Plane Texas South Central FIPS_4204 in NAD27 and NAD83 (Feet).



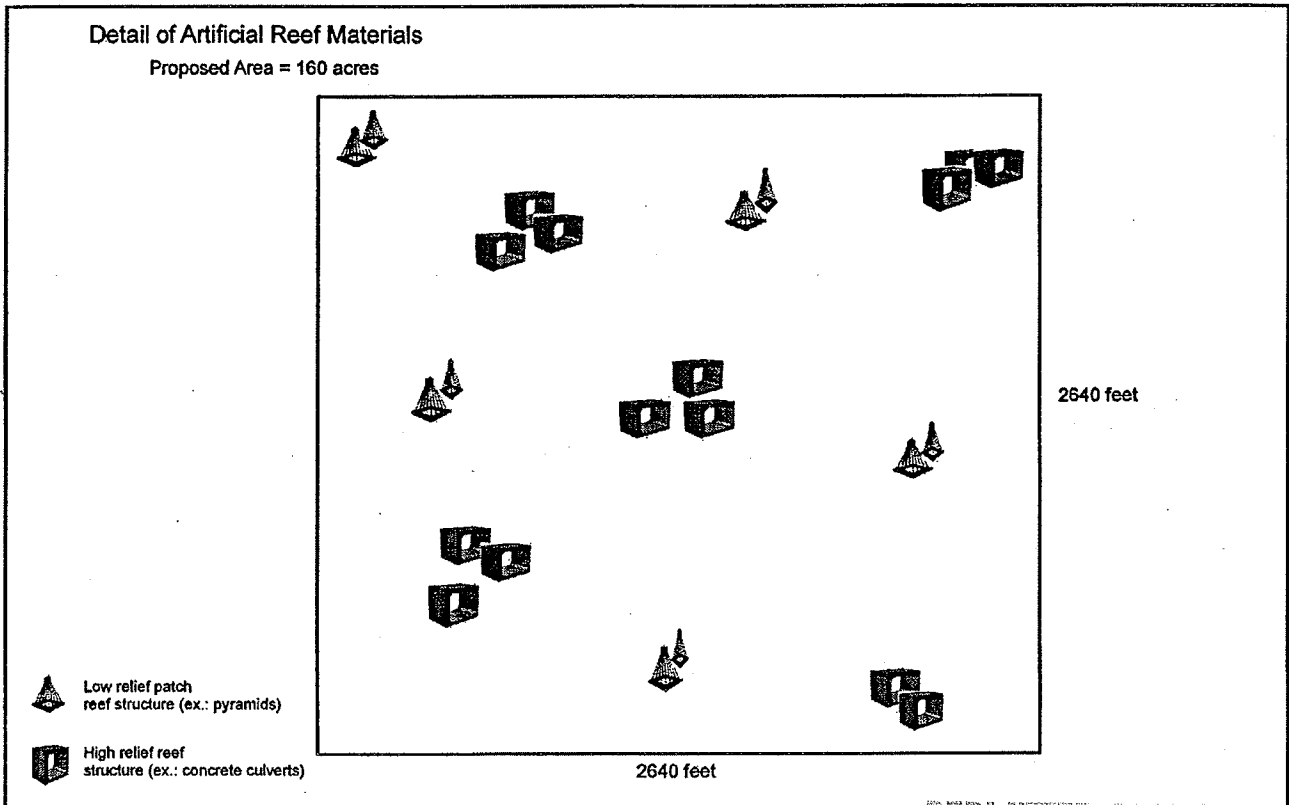
Legend

- Safety Fairways
- OCS Blocks
- 160 Acre Reef Site
- Reef Site Control Points
- Artificial Reef Site

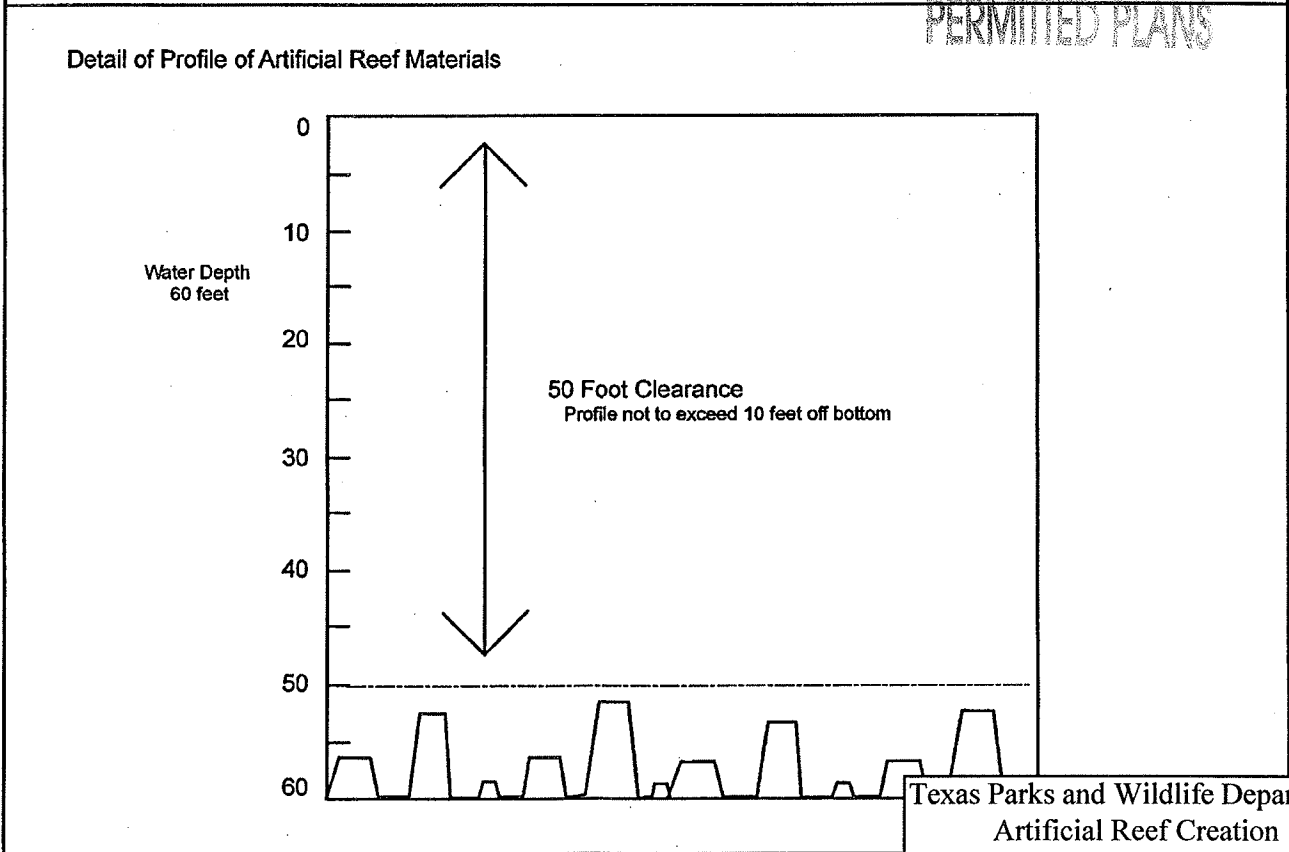


Texas Parks and Wildlife
 Department
 Artificial Reef Creation
 Matagorda County, Texas
 Gulf of Mexico
 SWG-2009-01139 P. 1 of 2

Proposed Matagorda County Artificial Reef Site (BAMAR 9) 4 2010



PERMITTED PLANS



Texas Parks and Wildlife Department
Artificial Reef Creation
Matagorda County, Texas
Gulf of Mexico
SWG-2009-01139 P. 2 of 2

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
 REQUEST FOR APPEAL**

| | | | |
|--|--|------------------------|-------------------|
| Applicant: Texas Parks and Wildlife Department | | File #: SWG-2009-01139 | Date: 12/1/10 |
| Attached is: | | | See Section below |
| <input checked="" type="checkbox"/> | INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission) | A | |
| <input type="checkbox"/> | PROFFERED PERMIT (Standard Permit or Letter of Permission) | B | |
| <input type="checkbox"/> | PERMIT DENIAL | C | |
| <input type="checkbox"/> | APPROVED JURISDICTIONAL DETERMINATION | D | |
| <input type="checkbox"/> | PRELIMINARY JURISDICTIONAL DETERMINATION | E | |

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/> Or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved jurisdictional determination (JD) or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Natalie Rund, Regulatory Specialist
CESWG-PE-RE, P.O. Box 1229
Galveston, Texas 77553-1229
Telephone: 409-766-6384; FAX: 409-766-6301

If you only have questions regarding the appeal process you may also contact:

Elliott N. Carman, Appeal Review Officer
CESWD-PD-O, 1100 Commerce Street, Suite 831
Dallas, Texas 75242-1317
Telephone: 469-487-7061; FAX: 469-487-7199
Email: Elliott.N.Carman@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or authorized agent.

Date:

Telephone number:

NOTICE TO PERMITTEES

Department of the Army Permits for Work in Navigable Waters require attention to administration and policies which are often misunderstood or disregarded. To avoid possible misinterpretations and to expedite procedures, permit post-authorization requirements and pertinent information are outlined as follows:

1. Permits remain in effect until revoked, relinquished, or the structures are removed. An extension of time for completion of structures or work may be granted provided that a public notice is issued and that evidence is furnished of the bona fide intention of the permittee to complete the work within a reasonable time. If work or structures are not completed within the time provided in the permit, it is the permittee's responsibility to request an extension of time at least 4 months before the expiration date.

2. Maintenance of authorized completed structures may be done at any time without extending the completion period. It is, however, required that the District Commander be notified prior to commencement of maintenance.

3. SPECIAL REGULATIONS GOVERN MAINTENANCE WORK INVOLVING DREDGING OR FILL. This maintenance is not authorized by the original permit and specific prior approval is required before such work is commenced in navigable waters. Your request for authorization should be submitted in time for public notice requirements and coordination with other agencies.

4. If ownership of structures or work covered by a permit is transferred, the District Commander must be notified immediately. The notification will provide information so that permit responsibilities can be changed to the new owner or assignee.

5. Permittees are reminded that the Area Engineer must be notified as soon as possible of the time for commencement of construction or work, and immediately upon completion. If pipelines across Federal project channels are covered by the permit, the Area Engineer should be informed of the date the pipelines are to be placed in time for him to arrange for an inspector to be present.

6. All material changes in location or plans must be submitted promptly to the District Commander for approval before construction is begun.

7. Permits should not be considered as an approval of design features of any structure authorized or an implication that such structure is adequate for the purpose intended.

DISTRICT COMMANDER
GALVESTON DISTRICT
CORPS OF ENGINEERS