

DEPARTMENT OF THE ARMY PERMIT

Permittee: THE NATURE CONSERVANCY

Permit No: SAM-2011-0493-DEM

Issuing Office: MOBILE 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 U. S. Army Corps of Engineers (Corps) 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: The applicant proposes to build approximately 11 miles of oyster reef/living shoreline breakwaters along approximately 15 miles of shoreline. Depending on the conditions of the site location, bagged oyster shell, ReefBalls, ReefBiks, and other technologies to provide a settlement substrate for the oysters will be used. The reef / living shoreline breakwaters will be placed between 20m and 100m from the shoreline to provide adequate shoreline protection. Breakwater lengths will range from 15m to 125m based on the site shoreline length and will be spaced to allow for tidal flushing. For navigational purposes, "Submerged Reef" signs will be placed along the breakwaters, with osprey platforms marking mile increments (maximum distance). For educational purposes, interpretive signage discussing the project's benefits will be placed at public locations near the reef/living shoreline breakwater site, given permission and accessibility.

ATTACHED: 1. Project Plans (37)

2. Alabama Department of Environmental Management Water Quality/Coastal Zone Management Certification, dated March 9, 2012 (3 pages)

3. Alabama Standard Manatee Construction Conditions

Project Location: Various shorelines of Mobile and Baldwin counties to include waters of Mobile Bay, Portersville Bay, Weeks Bay, Mississippi Sound, and Bon Secour Bay. *See project site location data for details.*

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on March 9, 2017. 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 1 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.

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Special Conditions: a. Compliance with all terms and general and special conditions of this Permit is mandatory.

b. It is the permittee's responsibility to ensure that the contractors working on this project are aware of all general and special permit conditions.

c. The permittee will maintain CWA Section 401(a) Water Quality Certification and Coastal Consistency as required by the ADEM certification letter dated March 9, 2012.

d. Should cultural resources be encountered during project activities, work shall cease and the U.S. Army Corps of Engineers Mobile District, Alabama State Historical Preservation Officer (SHPO) and the Alabama-Coushatta Tribe of Texas shall be consulted immediately. This stipulation shall be placed on the construction plans, and it is the permittee's responsibility to ensure that contractors are aware of this requirement. SHPO contact information: Alabama Historical Commission, Attention: Mr. Greg Rhinehart, 468 South Perry Street, Montgomery, Alabama 36130-0900, or telephone (334) 242-3184. The ACH tracking number is 11-1168; Alabama-Coushatta Tribe of Texas, Attention: Mr. Bryant J. Celestine, 571 State Park Road 56, Livingston, Texas 77351.

e. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures 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, 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.

f. 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. 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.

g. This permit does not authorize impacts to wetlands, natural shellfish beds, or submerged aquatic vegetation.

h. It is the responsibility of the permittee to coordinate this activity with the State Lands Division, Alabama Department of Conservation and Natural Resources (ADCNR), for any riparian rights issues or leases that may be required for impacting State water bottoms. ADCNR, State Lands Division, 31115 Five Rivers Boulevard, Spanish Fort, Alabama 36527, phone number (251) 621-1238.

i. All structures will be marked in accordance with the rules and regulations of the United States Coast Guard and the Alabama Marine Police.

j. The permittee will provide the Mobile District and the U.S. Coast Guard a work schedule for offshore work, at least 60 days in advance, so that a "Notice to Mariners" can be issued.

k. Construction activities shall not infringe upon navigation on the waterway. These activities shall be in compliance with 33 CFR 163, which states in part: "A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows normally using the various waterways."

l. The permittee will promptly notify the District Engineer of any discharge in violation of this permit.

m. An as-built survey the entire shoreline breakwater project shall be conducted and furnished to the Corps after construction completion.

n. The applicant shall implement appropriate Best Management Practices as required by the FWS and ADEM 401/CZM certifications as well as the FWS "Standard Manatee Construction Conditions".

Any observation of a Florida Manatee or Gulf Sturgeon within the area during project operations shall be reported to this office immediately.

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).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

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, SAM-2011-0493-DEM.

Judy Haner
(PERMITTEE) MS. JUDY HANER
THE NATURE CONSERVANCY
56 ST. JOSEPH STREET
MOBILE, ALABAMA 36602

4/13/2012

(DATE)

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

STEVEN J. ROEMHILDT, P.E.
COLONEL, CORPS OF ENGINEERS
(DISTRICT COMMANDER)

BY:

Joy B. Earp
JOY B. EARP
TEAM LEADER, COASTAL ALABAMA
REGULATORY DIVISION

April 16, 2012
(DATE)

When the structures or work authorized by this permit (SAM-2011-0493-DEM) 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)

Appendix A: Revised Summary Table

RAI Response

Attachment # A) Plan View B) Cross-Section Profile	Site Name	General Location (S/T/R)	Latitude / Longitude	Ownership	Proposed Project Length		Reef Footprint (ft ²), (m ²), (ac)
					Reef (ft), (m)	Shoreline (ft), (m)	
#1	Point aux Pines North	Portersville Bay, MS Sound (5,7,8/75/3W)	30°22'24.85"N 88°18'11.37"W	Federal	3,336 ft 1,016 m	5,227 ft 1,593 m	66,720 ft ² 6,198 m ² 1.53 ac
#2	Point aux Pines South	Portersville Bay, MS Sound (5,7,8/75/3W)	30°22'24.85"N 88°18'11.37"W	Federal	5,168 ft 1,576 m	7,087 ft 2,161 m	103,360 ft ² 9,602 m ² 2.37 ac
#3	City of Fairhope Pier	E Mobile Bay (3/7/5S/2E)	30°31'23.13"N 87°54'46.13"W	City	460 ft 140 m	976 ft 297 m	9,200 ft ² 855 m ² 0.21 ac
#4	Coffee Island North	Portersville Bay, MS Sound (1/7/5/3W)	30°20'39.20"N 88°15'25.73"W	State	12,710 ft 3,875 m	18,322 ft 5,585 m	254,200 ft ² 23,616 m ² 5.84 ac
#5	Coffee Island South	Portersville Bay, MS Sound (1/7/5/3W)	30°20'39.20"N 88°15'25.73"W	State	5,159 ft 1,573 m	7,090 ft 2,161 m	103,180 ft ² 9,586 m ² 2.37 ac
#6	Swift Tract North	Bon Secour Bay, E Mobile Bay (13/7/5/2E; 18/7/5/3E; 19, 20, 29/8/5/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft ² 9,142 m ² 2.26 ac
#7	Swift Tract Central	Bon Secour Bay, E Mobile Bay (13/7/5/2E; 18/7/5/3E; 19, 20, 29/8/5/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft ² 9,142 m ² 2.26 ac
#8	Swift Tract South	Bon Secour Bay, E Mobile Bay (13/7/5/2E; 18/7/5/3E; 19, 20, 29/8/5/3E)	30°20'22.12"N 87°48'53.28"W	State	4,920 ft 1,500 m	6,925 ft 2,111 m	98,400 ft ² 9,142 m ² 2.26 ac
#9	Marsh Island	MS Sound (30/8/5/2W)	30°19'14.39"N 88°13'23.41"W	State	2,195 ft 669 m	3,007 ft 917 m	43,900 ft ² 4,078 m ² 1.01 ac
#10	Arlington Cove - Brookley Center	NW Mobile Bay (3, 10/4/5/1W)	30°37'51.58"N 88°03'26.02"W	State / University	6,150 ft 1,875 m	8,336 ft 2,541 m	123,000 ft ² 11,427 m ² 2.82 ac
#11	Pelican Point	Weeks Bay, E Mobile Bay (4/7/5/12E)	30°22'37.69"N 87°50'22.36"W	State	265 ft 81 m	420 ft 128 m	5,120 ft ² 476 m ² 0.12 ac
#12	Point Clear	E Mobile Bay (36/7/5/1E)	30°28'57.31"N 87°56'08.98"W	Private (The Grand Hotel)	582 ft 177 m	925 ft 282 m	11,640 ft ² 1,081 m ² 0.27 ac
#13	Private Living Shoreline #1	Bon Secour Bay, Gulf Shores, SE Mobile Bay (23/9/5/2E)	30°14'58.68"N 87°50'12.39"W	Private (Bridges, Callaway, Calhoun)	230 ft 70 m	365 ft 111 m	4,600 ft ² 427 m ² 0.11 ac
#14	Private Living Shoreline #2	Bon Secour Bay, Gulf Shores, SE Mobile Bay (23/9/5/2E)	30°14'47.47"N 87°50'30.07"W	Private (Bridges, Callaway, Calhoun)	576 ft 175 m	912 ft 278 m	11,520 ft ² 1,070 m ² 0.26 ac
#15	Private Living Shoreline #3	Bon Secour Bay, SE Mobile Bay (5/9/5/3E)	30°15'35.67"N 87°46'21.31"W	Private (Peninsula Golf Club)	4,680 ft 1,427 m	6,340 ft 1,933 m	93,600 ft ² 8,696 m ² 2.15 ac
PROPOSED PROJECT TOTAL					56,271 ft. (10.6 mi.)	79,782 ft. (15 mi.)	1,112,420 ft ² 104,555 m ² 25.8 ac