

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Memorandum Documenting General Permit Verification

1.0 Introduction and overview: Information about the proposal subject to one or more of the Corps regulatory authorities is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 4 and findings are documented in Section 5 of this memorandum. Further, summary information about the activity including the administrative history of actions taken during project evaluation is attached (ORM2 summary) and incorporated into this memorandum.

1.1 Applicant name: Coastal Protection & Restoration Authority, P.O. Box 44027, Baton Rouge, LA 70804.

1.2 Activity location: Located 4 miles southeast of Cocodrie, LA, at the Houma Navigation Canal (HNC) Island along the Houma Navigation Canal, in Terrebonne Bay, Terrebonne Parish, Louisiana (29.1944, -90.6159).

1.3 Description of activity requiring verification: Restoration of the HNC Island by hydraulic dredging from an open water borrow site and placement of sediments within a perimeter rock dike to increase the current acreage of the island from 27 acres to 50 acres. Approximately 717,814 cubic yards of material will be dredged from the 120.8 acre borrow area, which is located approximately 10 miles south of the project area, between Timbalier Island and Isles Dernieres. Sediments will be placed at various elevations to create marsh, shrub nesting, and ground nesting habitats to restore eroded marsh and imperiled, traditional bird nesting habitat. The original, 5,575 linear foot, 50 acre perimeter rock dike will be restored with added rip-rap and constructed around the perimeter of the island. 57 acres of fill are proposed to restore the island and install rock dike and breakwaters. Portions of the rock dike will be constructed to 2.5 feet feet to allow for greater tidal exchange. Approximately 1,688 linear feet of rock breakwaters will be installed to provide additional protection to the island at the tidal exchange areas of the perimeter rock dike.

1.4 Permit authority: Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344)

1.5 Applicable Permit: Programmatic General Permit (PGP) 2

1.6 Activity requires written waiver? No

2.0 Evaluation of the Pre-Construction Notification

2.1 Direct and indirect effects caused by the GP activity: Impacts to 120.8 acres of waterbottoms are proposed, due to dredging and 57 acres of fill are proposed due to the island restoration and placement of rock. The work is proposed to have a net benefit due to the restoration of the island.

2.2 Site specific factors: Project site consists of a degraded island in Terrebonne Bay. The island was previously surrounded by a rock dike and received sediments from the maintenance dredging of the HNC. Over time the 50 acre island has eroded to approximately 37 acres and the rock dike has subsided. The island is one of the few remaining bird nesting islands in Terrebonne Bay and is rapidly losing viable nesting ground.

2.3 Coordination

2.3.1 Was the PCN coordinated with other agencies? Yes. An agency notice was provided for the project by CPRA on 9/22/2022. CEMVN provided agency notice on 12/19/2022.

By email dated 9/27/2022, the Louisiana Department of Wildlife and Fisheries (LDWF) gave no objection.

By email dated 12/20/2022, the NMFS gave no objection.

By email dated 5/31/2023, the USCG stated that MSU Houma COTP has reviewed the permit application and has no objections. If the applicant intends to cross or block the Houma Navigation Canal at any time, they will need to work directly with MSU Houma Waterways Management Division: email: MSUHouma.waterways@uscg.mil. We can assist in Notice to Mariners Broadcasts as needed.

2.3.2 Was the PCN coordinated with other business lines of the Corps? Yes.

5/17/2022: The proposal was sent to MVN-RE for review. By memo dated 12/19/2022, the MVN RE stated: A real estate instrument will not be required for this application.

12-20-22: CEMVN Archaeologist responded: “provide permit condition that explicitly states that cluster 4 in TE-0165 Borrow Area 1 should be avoided to prevent potential impacts to 106 resources. USACE accepts the recommendations and rationale documented in the report and with the assessment that no historic properties listed in or eligible for listing in the National Register of Historic Places will be affected within the Equipment Access Corridor, Island Fill Area, Island Access Corridor, Conveyance Corridor, and Borrow Area 2 project areas. For Borrow Area 1, we concur with the recommendation that Cluster 4 and recorded shipwrecks KML_2693, KML_2683, and KML_2687 be avoided with a buffer of 150 feet around each reported location. In addition, in a letter to the applicant dated 6 October 2022, the Louisiana SHPO stated that if the recorded shipwrecks and buffer zones can be avoided, they have no further concerns for the project.”

2.4 Mitigation

2.4.1 Provide brief description of how the activity has been designed on-site to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site: The project is not expected to have permanent impacts to wetlands or special aquatic sites.

2.4.2 Is compensatory mitigation required for unavoidable impacts to jurisdictional aquatic resources to reduce the individual and cumulative adverse environmental effects to a minimal level? No.

Provide rationale: The proposed work does not involve wetland impacts.

2.4.3 Type and location of compensatory mitigation

Is the impact in the service area of an approved mitigation bank? Yes

If yes, does the mitigation bank have the appropriate number and resource type of credits available? Yes

Is the impact in the service area of an approved in-lieu fee program? Yes

If yes, does the in-lieu fee program have the appropriate number and resource type of credits available? N/A

Selected compensatory mitigation type/location(s): See Table 1

Mitigation bank credits	
In-lieu fee program credits	
Permittee-responsible mitigation under a watershed approach	
Permittee-responsible mitigation, on-site and in-kind	
Permittee-responsible mitigation, off-site and/or out of kind	

Does the selected compensatory mitigation option deviate from the order of the options presented in §332.3(b)(2)-(6)? N/A

If yes, provide the rationale for the deviation, including the likelihood for ecological success and sustainability, location of the compensation site relative to the impact site and their significance within the watershed, and/or the costs of the compensatory mitigation project (see 33 CFR §332.3(a)(1)): N/A

2.4.4 Amount of compensatory mitigation: N/A

Rationale for required compensatory mitigation amount: N/A

2.4.5 For permittee responsible mitigation identified in 2.4.3 above, the final mitigation plan must address the items described in 33 CFR 332.4(c)(2) through (c)(14) at a level of detail commensurate with the scale and scope of the impacts. As an

alternative, the district engineer may determine that it would be more appropriate to address any of the items described in (c)(2) through (c)(14) as permit conditions, instead of components of a compensatory mitigation plan. Presence of sufficient information related to each of these components in the applicant’s mitigation plan is indicated by “Yes” in Table 2. “No” indicates absence or insufficient information in the plan, in which case, additional rationale must be provided below on how these components will be addressed through special conditions or why a special condition is not required or why these components are not needed at all.

Table 2: Permittee-Responsible Mitigation Plan Components		
Included in the Mitigation Plan	Yes	No
Objectives		
Site selection		
Site protection instrument		
Baseline information		
Determination of credits		
Mitigation work plan		
Maintenance plan		
Performance standards		
Monitoring requirements		
Long-term management plan		
Adaptive management plan		
Financial assurances		
Other		

For any “no”, provide rationale on how the subject component(s) of the compensatory mitigation plan will be addressed as special conditions or why no special conditions are required: N/A

3.0 Compliance with Other Laws, Policies and Requirements

3.1 Section 7(a)(2) of the Endangered Species Act (ESA)

3.1.1 ESA action area: The ESA action area includes the footprint of the regulated activity.

3.1.2 Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? Yes. This project was assessed by the Louisiana Trustee Implementation Group. After the Deepwater Horizon (DWH) oil spill, federal and state natural resource trustee agencies (Trustees) came together to assess the effects of the spill and plan for the restoration of injured natural resources. As part of the legal settlement reached with BP in 2016, the Trustees prepared a Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (PDARP/PEIS), to provide the

framework for DWH oil spill restoration across the Gulf. The PDARP/PEIS established Trustee Implementation Groups that develop specific plans for, developing, selecting, and implementing specific restoration actions under the PDARP/PEIS.

The Louisiana Trustee Implementation Group (LA TIG) includes five Louisiana state trustee agencies and four federal trustee agencies: the Louisiana Coastal Protection and Restoration Authority; the Louisiana Department of Natural Resources; the Louisiana Department of Environmental Quality; the Louisiana Oil Spill Coordinator’s Office; the Louisiana Department of Wildlife and Fisheries; the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration; the United States Department of the Interior, represented by the United States Fish and Wildlife Service and National Park Service; the United States Department of Agriculture; and the United States Environmental Protection Agency.

- 3.1.3 Are there listed species or designated critical habitat that may be present or in the vicinity of the Corps’ action area? No. The Corps has determined that it has fulfilled its responsibilities under Section 7(a)(2) of the ESA. Effect determination(s), including no effect, for all known species/habitat, and basis for determination(s): **LATIG informal consultation with USFWS dated 10/25/2022 conducted resulted in “Not Likely to Adversely Affect” for the following species: Western Indian Manatee (Manatee Special Conditions will be made part of the authorization).**
- 3.1.4 Consultation with either the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service was initiated and completed as required, for any determinations other than “no effect” (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation) Based on a review of the information above, the Corps has determined that it has fulfilled its responsibilities under Section 7(a) (2) of the ESA. The documentation of the consultation is incorporated by reference.
- 3.2 **Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act), Essential Fish Habitat (EFH)** Permanent or Detrimental impacts to EFH are not expected.
- 3.2.1 Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? Yes The LATIG performed consultation with NMFS 10/25/2022 and received concurrence by letter dated June 1, 2023. CEMVN also received a no objection from NMFS following a 10-day agency review on 12/20/2022.
- 3.2.2 Did the proposed project require review under the Magnuson-Stevens Act? Yes, agency review.
- 3.2.3 If yes, EFH species or complexes considered: N/A

Effect determination and basis for that determination: No objection received from NMFS as stated previously in this document.

- 3.2.4 Consultation with the National Marine Fisheries Service was initiated and completed as required (see the attached ORM2 Summary sheet for begin date, end date and closure method of the consultation) Based on review of the above information, the Corps has concluded that it has fulfilled its responsibilities under the EFH provisions of the Magnuson-Stevens Act.

3.3 **Section 106 of the National Historic Preservation Act (Section 106)**

- 3.3.1 Section 106 permit area: The permit area includes only those areas comprising waters of the United States that will be directly affected by the proposed work or structures, as well as activities outside of waters of the U.S. because all three tests identified in 33 CFR 325, Appendix C(g)(1) have been met.

Final description of the permit area: The HNC Island and borrow site were evaluated for 106.

- 3.3.2 Has another federal agency been identified as the lead federal agency for complying with Section 106 of the National Historic Preservation Act with the Corps designated as a cooperating agency and has that consultation been completed?
Yes: The LATIG conducted coordination with LASHPO and the tribes.

- 3.3.3 Known historic properties?

No Effect determination and basis for that determination:
Determination of Effect:

No Historic Properties Affected 36 CFR 800.4(d)(1) with avoidance Rationale: Based on Louisiana Division of Archaeology Report No. 22-7117 *Submerged Cultural Resources Assessment Survey for the Terrebonne HNC Island Restoration (TE-0165) Project in Terrebonne Parish, Louisiana*. USACE accepts the recommendations and rationale documented in the report and with the assessment that no historic properties listed in or eligible for listing in the National Register of Historic Places will be affected within the Equipment Access Corridor, Island Fill Area, Island Access Corridor, Conveyance Corridor, and Borrow Area 2 project areas. For Borrow Area 1, we concur with the recommendation that Cluster 4 and recorded shipwrecks KML_2693, KML_2683, and KML_2687 be avoided with a buffer of 150 feet around each reported location. In addition, in a letter to the applicant dated 6 October 2022, the Louisiana SHPO stated that if the recorded shipwrecks and buffer zones can be avoided, they have no further concerns for the project.

Tribes: 4/4/2023 LATIG member, James Chapman (USFWS) provided confirmation that consultation letters were provided to the Tribes. No response was received. Copies of the Tribal consultation letters were provided and will be part of the administrative file.

3.3.4 Based on a review of the information above, the Corps has determined that it has fulfilled its responsibilities under Section 106 of the NHPA. Compliance documentation incorporated by reference.

3.4 Tribal Trust Responsibilities

3.4.1 Was government-to-government consultation conducted with Federally-recognized Tribe(s)? No

Provide a description of any consultation(s) conducted including results and how concerns were addressed. The Corps has determined that it has fulfilled its tribal trust responsibilities.

3.4.2 Other Tribal including any discussion of Tribal Treaty rights? N/A

3.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)

3.5.1 Is a Section 401 WQC required, and if so, has the certification been issued, waived or presumed? A general WQC has been issued for this permit.

3.6 Coastal Zone Management Act (CZMA)

3.6.1 Is a CZMA consistency concurrence required, and if so, has the concurrence been issued, waived or presumed? A general CZMA consistency concurrence has been issued for this permit. P20210780

3.7 Wild and Scenic Rivers Act

3.7.1 Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system? No

3.8 Effects on Corps Civil Works Projects (33 USC 408)

3.8.1 Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project? Yes. ODS provided a MFR with navigation conditions, which will be attached to the authorization.

4.0 Special Conditions

4.1 Are special conditions required to ensure minimal effects, protect the public interest and/or ensure compliance of the activity with any of the laws above? Yes

4.2 Required special condition(s)

1. All work shall be done in accordance with the approved plans and shall be confined to the permitted work area(s) represented within the attached drawings. If

the project requires modifications to the authorized plan, the permittee shall contact this office to obtain a permit amendment and/or review and decision on the plans, prior to commencement of those alterations.

2. The permittee shall adhere to the attached Manatee Special Conditions.

3. The permittee is aware that future site visits and inspections may be conducted to the project area by this office and/or other resource agencies in order to assess project compliance with this authorization and requirements associated herewith. If it is determined by this office that construction activities resulted in permanent impacts or disruption to vegetated wetland resources not permitted under this authorization, you shall implement appropriate measures, as directed by this office, to bring your activity into compliance.

4. The permittee is made aware that the U.S. Coast Guard MSU Houma COTP requires, if at any time the permittee intends to cross or block the Houma Navigation Canal, the permittee shall work directly with MSU Houma Waterways Management Division who can be reached at Email: msuhouma.waterways@uscg.mil or (985) 850-6463.

5. 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.

7. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

8. You must install and maintain, at your expense, any safety lights, signs and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, on your authorized facilities. Any inquiries concerning a U.S. Coast Guard Private Aids to Navigation marking determination may be directed to the Eighth Coast Guard District (dpw), Hale Boggs Federal Building, 500 Poydras St., Suite 1230, New Orleans, Louisiana 70130, at (504) 671-2330 or via email to:

D8oanPATON@uscg.mil. For general information related to Private Aids to Navigation, you may visit the Eighth CG District web site at:

<http://www.atlanticaea.uscg.mil/district-8/district-divisions/waterways/PATON>.

9. If the authorized project, or future maintenance work, involves the use of floating construction equipment (barge mounted cranes, barge mounted pile driving equipment, floating dredge equipment, dredge discharge pipelines, etc.) in the waterway, you are advised to notify the Eighth Coast Guard District so that a Notice to Mariners, if required, may be prepared. Notification with a copy of this permit

approval and drawings can be emailed to: D8MarineInfo@uscg.mil, or mailed to the Commander (dpw), Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, Suite 1230, New Orleans, Louisiana 70130. Telephone inquiries can be directed to the Eighth Coast Guard District, Waterways Management at (504) 671-2118.

10. The permittee is advised of the requirements set forth in the attached Memorandum for Record and the associated special conditions. All responsibilities and compliance related to the subject conditions are hereby directed to and have oversight by the USACE Navigation Office, Operations Manager, ODS, Mr. Raymond Newman, with this District. Should you have any questions on the requirements and restrictions stipulated, you shall contact the specified Operations Manager, who may be reached at 504-862-2050 or raymond.c.newman@usace.army.mil

11. The permittee shall adhere to the following recommendations provided by the State Historic Preservation Officer (SHPO): For Borrow Area 1, we concur with the recommendation that Cluster 4 and recorded shipwrecks KML_2693, KML_2683, and KML_2687 be avoided with a buffer of 150 feet around each reported location. Prior to beginning work in these locations, contact the LASHPO, Chip McGimsey at cmcgimsey@crt.la.gov or 225-219-4598.

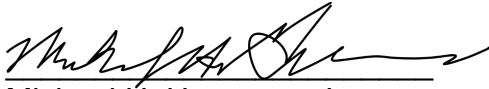
Rationale: Special conditions and the PGP general conditions were added to avoid impacts to water quality through construction-related erosion and sedimentation, impacts to cultural resources, navigation safety and to advise the applicant of procedures related to any project alterations. Special conditions were also included to minimize and avoid direct and/or secondary negative effects to the environment and aquatic resources, avoid and minimize impacts to navigation, protect the public's interest and/or ensure compliance of the subject authorization.

5.0 Determination:

The project would include the hydraulic dredging of 120.8 acres of waterbottoms and deposition of fill to restore over 50 acres of marsh and bird rookery habitat at the HNC Island in Terrebonne Bay. This office believes the applicant has provided adequate justification to allow authorization of the work as proposed.

- 5.1 Waiver request conclusion, if required or select N/A: N/A
- 5.2 The activity will result in no more than minimal individual and cumulative adverse effects on the aquatic environment and will not be contrary to the public interest.
- 5.3 This activity, as described, complies with all terms and conditions of the permit identified in Section 1.5.

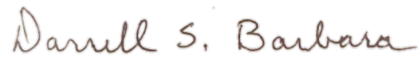
PREPARED BY:



Michael H. Herrmann Jr.
CEMVN-RGW, Project Manager

Date: June 9, 2023

APPROVED BY:



Darrell S. Barbara
CEMVN-RGW, Branch Chief

Date: June 12, 2023

**Department of the Army General Permit Verification – ORM2 Decision Summary
Data for MVN-2022-01172-WLL – CPRA - (TE-0165) Terrebonne HNC Island
Restoration Project - Terrebonne**

Date Generated: 09-JUN-2023

Permit ID(s): 12013414

Applicant Info:

Contact ID	Applicant
11752673	Sydney Dobson (Louisiana Coastal Protection and Restoration Authority)

Location Latitude/Longitude: 29.194442, -90.615933

Authorized Project Description (from the permit action)

Description	Permit IDs
Island restoration	12013414

Closure Method

Permit Begin Date	Permit End Date	Closure Method	Permit IDs
06-OCT-2022	09-JUN-2023	Verified With Special Conditions	12013414

After-the-fact (ATF)?

ATF	Permit IDs
	12013414

Jurisdictional Determination(s) (JDs)

No Data Found

Permit Authority

Permit Authority	Permit IDs
Section 10/404	12013414

Permit Type, Permit Name and Number (PNN)

Permit Type	PNN	Permit IDs
PGP	PGP II - Programmatic GP	12013414

Pre-Construction Notification (PCN)?

PCN	Permit IDs
No	12013414

Date Determined Complete for Processing

Date Processing Complete	Permit IDs
06-OCT-2022	12013414

Worktypes

Worktype	Permit IDs
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Impact(s) including Impact Activity Types (IAT), Units of Measure (UOM) and Amounts

Permit ID	Perm Loss	Cowardin Class	IAT	Initially Proposed	Proposed	Authorized
12013414	No	E2EM-ESTUARINE, INTERTIDAL, EMERGENT	Fill Area	(L) (W) (A) 50 Acre	(L) (W) (A) 50 Acre	(L) (W) (A) 50 Acre
12013414	No	E2EM-ESTUARINE, INTERTIDAL, EMERGENT	Dredge Removal Area	(L) (W) (A) 128 Acre	(L) (W) (A) 128 Acre	(L) (W) (A) 128 Acre

Aquatic Resource(s) associated with Impact(s)

Waters Name	Waters Type	Cowardin Class	Waterway	Latitude/Longitude	Permit IDs
MVN-2022-01172-WLL, (TE-0165) Terrebonne HNC Island Restoration Project	Delineation Only - PJD or No JD Required	E2EM-ESTUARINE, INTERTIDAL, EMERGENT	Terrebonne Bay	29.194442, -90.615933	12013414, 12013414

Internal Coordination

Permit ID	SubAction ID	Permit Start Date	Permit End Date
12013414	12224210	20-DEC-2022	20-DEC-2022
12013414	12224214	20-DEC-2022	04-APR-2023
12013414	12224222	06-OCT-2022	01-FEB-2023

Compensatory Mitigation Required (CMR)? Permittee Responsible Mitigation (PRM)?

CMR?	PRM?	Permit IDs
No	None	12013414

Mitigation including Type, Units of Measure (UOM) and Amounts

No Data Found

Advanced Permittee Responsible Credits

No Data Found

Aquatic Resource(s) associated with Mitigation

No Data Found

Evaluation Checklist Responses for:

Endangered Species Act (ESA)

Type	Decision	Permit IDs
ESA Coordination	Resources Present/No Effect	12013414

Essential Fish Habitat (EFH)

Type	Decision	Permit IDs
EFH Coordination	Resources Present/No Effect	12013414

Section 106 of the NHPA

Type	Decision	Permit IDs
Section 106 of the NHPA	Coordination/Consultation Required	12013414

Tribal Consultation(s)

Type	Decision	Permit IDs
Tribal Coordination/Consultation	Not Required	12013414

Wild & Scenic River

Type	Decision	Permit IDs
Wild & Scenic River	No Resources Present	12013414

Water Quality Certification (WQC)

Type	Decision	Permit IDs
Individual WQC	Not Required	12013414

Coastal Zone Management Consistency Concurrence (CZM)

Type	Decision	Permit IDs
CZM	Required	12013414

Recapture Provision

Type	Decision	Permit IDs
Recapture Provision	Does Not Apply	12013414

Subactions Added:

ESA Consultation(s)

No Data Found

EFH Consultation(s)

No Data Found

Section 106 of the NHPA Consultation(s)

No Data Found

Tribal Consultation(s)

No Data Found

Water Quality Certification (WQC) Consultation(s)

No Data Found

408 Review Required?