



REPLY TO
ATTENTION OF

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

April 11, 2011

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Mississippi Dept of Marine Resources
PERMITTING

MAY 07 2011

RECEIVED

Coastal Branch
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit Number SAM-2007-00316-MFM,
Mississippi Department of Marine Resources

Mississippi Department
of Marine Resources
Attention: Mr. Bradley Randall
1141 Bayview Avenue
Biloxi, Mississippi 39530

Dear Mr. Randall:

Reference is made to your request to rehabilitate approximately 3,011 acres of oyster reefs damaged by Hurricane Katrina by seeding new cultch material to affected reefs within Mississippi Sound, south of St. Louis Bay. The project sites are generally variable in location but have been identified on the four enclosed site maps. These maps show the exact locations and identification name of the planting sites, as follows: KS07-01S, 02L, 03L, 04L, 05L; KF08-02S, -03S, -04L, -05L, -06L, -07S, -08L; KS09-L1, -L2, -L3, -L4; L-12, L-24, L-41, L-81, L-82, L-84 and L-91. It has been assigned the file number SAM-2007-00316-MFM, which should be referred to in all future correspondence with this office concerning this project.

Department of the Army permit authorization is necessary because your project would involve work within waters of the United States under our regulatory jurisdiction. Specifically, the activity would consist of the discharge of approximately 42,000 cubic yards of cultch and limestone material onto existing oyster reefs within Mississippi Sound for the purpose of reef rehabilitation.

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 plan, is authorized by Nationwide Permit (NWP) 48, *Existing Commercial Shellfish Aquaculture Activities*. This letter verifies the proposed activity is authorized by NWP 48 in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated General Conditions can be viewed at our website at: www.sam.usace.army.mil/rd/reg.

You must comply with all of the Regional and General Conditions and the below listed project special conditions:

a. The permittee shall comply with all the terms and conditions of the Mississippi Department of Environmental Quality's Section 401 Water Quality Certification for the 2007 Nationwide Program. A copy of this document can be referenced on the website listed above for your review and compliance.

b. The permittee shall comply with all the terms and conditions of the Mississippi Department of Marine Resources' Coastal Consistency Management Program for the 2007 Nationwide Program. A

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copy of this document can be referenced on the website listed above for your review and compliance.

c. No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. 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 U.S. Army Corps of Engineers(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.

d. The permittee shall implement best management practices to minimize elevated turbidity levels within waters of the United States during removal activities.

e. The permittee will contact the community's designated responsible officials to obtain necessary permits and to ensure all floodplain ordinances and safety precautions in effect are met for the project area.

f. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts.

g. This NWP does not authorize the expansion of the project area for the commercial shellfish aquaculture activity

h. This NWP does not authorize the cultivation of new species.

i. During construction should artifacts or archaeological features be encountered during project activities, work shall immediately cease and the Mississippi Historical Commission and Mobile District shall be consulted immediately.

This verification is valid until the NWP is modified, reissued or revoked. All of the existing NWP will expire **March 18, 2012**. If you commence or are under contract to commence this activity before the date the relevant NWP is modified or revoked, you will have 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 NWP 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 and Federal assent required by law. Nothing in this letter shall be constructed as excusing you from compliance with other Federal, State or local statues, ordinances or regulations which may affect this work.

Enclosed with this verification, is an approved jurisdictional determination (JD). If you are not in agreement with the approved JD, you can make an administrative appeal under 33 CFR Part 331. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and

Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part D and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by within 60 days of the date of this letter. It is not necessary to submit an RFA form to the District office, if you do not object to the determination enclosed with this letter.

Please note, NWP General Condition 26 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the commencement and completed work and any required mitigation. Enclosures 1 and 2 are the forms you must complete and return to us to satisfy this requirement. **The permittee shall notify the Corps, Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001, upon commencement and completion of work authorized by this permit. Such notification must be provided within 5 days of initiation and completion of authorized work.**

Please contact me at (251) 694-3772 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,

Sandy P. Gibson
Regulatory Specialist
Coastal Branch
Regulatory Division

Enclosures

When the structures or work authorized by this NWP (**SAM-2007-00316-SPG**), are still in existence at the time the property is transferred, the terms and conditions of this NWP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this NWP and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFERE)

(DATE)