



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY**  
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT  
CORPS OF ENGINEERS  
P.O. BOX 2288  
MOBILE, ALABAMA 36628-0001

July 18, 2010

Coastal Branch  
Regulatory Division

SUBJECT: Department of the Army Draft Permit Number SAM-2010-01014-SPG, Mobile County Commission, Dog River

Mobile County Commission  
Mobile County Engineering Department  
205 Government Street  
Mobile, Alabama 36644-1600

Gentlemen:

Enclosed are two copies of a Department of the Army Draft Permit for work specified in accordance with the enclosed plans, drawings, and specifications. If the permit is acceptable as drafted, you are requested to sign both copies in the space indicated and return both signed copies to me for final action. The original will be signed by me and returned to you with a placard to be posted at all times that construction is performed at the site.

**This permit is not valid until the District Commander signs it;** therefore, work must not commence on the project until a fully-executed copy has been returned to you.

Your attention is directed to all conditions under which this permit will be issued. Failure to comply with any condition of the approved permit may result in its suspension, cancellation, or revocation. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. 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 A 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 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/decision in this letter. In this case, both copies must be signed by the applicant in the space provided on the signature page of the permit. In the case of corporations, acceptance must be by an officer of that corporation authorized to sign on behalf of the corporation. The

party responsible for assuring the work is done in accordance with the permit terms and conditions must sign the permit. Please type or print the name and title of the person signing below the signature and the date signed.

Please contact this office at (251) 690-2658, if you have any questions. For additional information about our Regulatory Program, please visit our web site at: [www.sam.usace.army.mil/rd/reg](http://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,



Munther N. Sahawneh  
Chief, Coastal Branch  
Regulatory Division

Enclosures

## EMERGENCY DEPARTMENT OF THE ARMY PERMIT

In accordance with 33 CFR Part 325.2(e)(4), emergency procedures have been initiated for authorization of work in wake of a recent explosion on a drilling rig in the Gulf of Mexico (Deepwater Horizon Incident / Mississippi Canyon 252) and subsequent oil spill affecting areas within the regulatory boundaries of the U.S. Army Corps of Engineers (Corps), Mobile District, South Atlantic Division. This permit is issued under this emergency procedure.

Permittee: **MOBILE COUNTY COMMISSION**

Permit No.: **SAM-2010-01014-SPG**

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: Authorization is granted to temporarily install 700 linear feet of 54-inch offshore oil boom (deflective pipe) which would be attached by chain to eight 24-inch pipe piles. The driven piles will be spaced approximately 100 feet apart and will extend across the channel at Dog River, at its confluence with Mobile Bay West. Four lighted "Danger" signs conforming to U.S. Coast Guard requirements will be installed on the each pile. Two signs will be placed facing the east side of the boom and two signs will be placed facing the west side of the boom structure. An additional 400 feet of anchor-supported boom would be placed on the north side of the channel to support a skimmer pump-out area. Approximately 830 cubic yards of riprap will be placed within 1,275 square feet of jurisdictional waters to create a current-diversion dike on the south shore (east end of the boom structure). In the event of a Category 1 or higher storm, all boom sections will be removed and stored until storm passage.**

**A 100-foot-wide navigation section will be placed in the center of the boom structure to allow emergency and oil recovery vessels access in and out of the river. The gate will remain open until oil intrusion is imminent. Entrance/exits through the gate will be determined by coordination between the U.S. Coast Guard and the Mobile County Engineer, based upon on-site conditions.**

**Project Location: The project site is located within the confluence of Dog River and Mobile Bay West (Latitude: 30 33' 54", Longitude: -88 05' 18"), Theodore, Mobile County, Alabama and within Section 1, Township 5 South, Range 1 West.**

Attachments:

1. **Site Vicinity Map**
2. **Figure 1: Plan View of Dog River Emergency Oil Protection Project Plan - Aerial, dated July 2010**
3. **Figure 2: Plan View of Dog River Emergency Oil Protection Project Plan – B/W, dated July 2010**
4. **Figure 5: Cross-Section of Dog River Anchor Pile Detail, dated July 2010**
5. **USFWS *Alabama Standard Manatee Construction Conditions***
6. **USFWS *Attachment 2. Potential Emergency Response Activities and Recommendations for Minimizing Adverse Effects to Listed and Candidate Species and Designated Critical Habitat Areas (6 pages)***

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 18 July 2011. 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 four (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:

a. **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.**

b. **Since the construction of the riprap current-diversion dike and pipe booms will prohibit free passage of vessels within the pass, the Permittee must install and maintain, at their expense, any private aids to navigation applicable to the permitted activity, as required by the U.S. Coast Guard (USCG).**

c. **The Mobile District and the USCG shall be notified prior to work mobilization so that a “Notice to Mariners” can be issued. The work schedule shall be submitted by telephone to both the Corps and the USCG.**

U. S. Army Corps of Engineers.....	Telephone: (251) 690-2570
U.S. Coast Guard, Sector Mobile.....	Telephone: (251) 441-6512

**Corps Address: U.S. Army Corps of Engineers; Mobile District, OP-TN, P.O. Box 2288, Mobile, Alabama 36628.  
USCG Address: U.S. Coast Guard, Sector Mobile, Attention: Waterways Management Office Complex, South Broad Street – Building 102, Mobile, Alabama 36615-1390.**

d. **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 leases that may be required for impacting State-owned water bottoms. ADCNR, State Lands Division, 31115 Five Rivers Boulevard, Spanish Fort, Alabama 36527, Telephone (251)621-1238.**

e. **The Permittee shall comply with all requirements of the Alabama Department of Environmental Management’s 401 Water Quality Certification and coastal zone consistency dated 17 July 2010. The state certification is as follows:**

**ADEM Admin. Code r. 335-8-1-.05 defines as “permissible” those activities executed in the accomplishment of emergency decrees by the State to protect public health and safety. The**

ADEM understands the Governor has declared an emergency as the State responds to the Deepwater Horizon Spill Incident.

As the regulatory and monitoring agency for the Alabama Coastal Area Management Program, the ADEM concurs with the applicant's coastal consistency certification and hereby issues 401 water quality certification for the issuance of this emergency authorization as described in the application which is incorporated herein by reference.

To protect water quality in state waters, the applicant must implement appropriate effective best management practices in carrying out this activity to ensure that project construction and operation do not cause or contribute to a violation of applicable State Water Quality Standards. At the end of the emergency, unless otherwise approved pursuant to applicable requirements: 1) all fill placed in state waters as a result of this project must be removed; and 2) the shoreline restored to pre-project conditions.

This decision does not convey any property rights, in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in the applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State that may be in the applicant's possession.

f. Best Management Practices shall be implemented to minimize erosion, siltation and damage to waters of the United States from project related activities. All fill and fill removal activities shall be performed in a manner that minimizes disturbance to adjacent wetlands and minimizes turbidity increases in "waters of the United States."

g. The Permittee will coordinate to the greatest extent practicable with the U. S. Fish and Wildlife Service (USFWS) to ensure avoidance of impacts to critical habitat for Threatened and Endangered Species. Should formal consultation be required it shall be initiated as soon as practicable after the emergency is under control. Alabama USFWS contact: Mr. Patric Harper at telephone (251) 441.5857 or cell (251) 424.0716. Address: USFWS/Daphne Field Office, 1208-B Main St., Daphne, AL 36526; Email Patric\_Harper@fws.gov. This coordination action is pursuant to emergency procedures as outlined per section 402.5 (a) and (b), Emergencies, for compliance with the Endangered Species Act of 1973.

h. The Permittee shall implement all appropriate recommendations found within the *U.S. Fish and Wildlife Emergency Endangered Species Act Section 7 Consultation for Mississippi Canyon 252 Oil Spill Response Actions* dated May 12, 2010. Particularly, recommendations of *Attachment 2: Potential Emergency Response Activities and Recommendations for Minimizing Adverse Effects to Listed and Candidate Species and Designated Critical Habitat Areas – Section 2: Marsh Fringe, Open-water Areas between Broken Marsh, Bayside shorelines* (copy enclosed – 3 pages).

i. The Permittee shall implement all appropriate recommendations found within the *Alabama Standard manatee Construction Conditions* (copy enclosed – 3 pages). If these conditions cannot be met or there is an occurrence of collision with and/or injury to a manatee, as a result of this project operations, work shall cease immediately and the Corps and USFWS shall be contacted immediately.

j. Prior to commencement of work, the project site and areas located within a 300-foot buffer surrounding the permitted area, must be surveyed for the endangered Alabama red-bellied turtle. The Permittee must provide before and after photo-documentation and a report of findings of the survey to the Corps for possible after-the-fact Section 7 consultation with USFWS.

k. Collect all injured/dead wildlife and deliver it to the appropriate enforcement authorities. For oiled birds contact the Oiled Birds Hot Line (866) 557-1401. For carcass disposal contact the USFWS (509) 434-9629.

**l. Once deployed, the boom system shall be monitored for entrapped fish and wildlife. Please notify the U.S. Fish and Wildlife Service (FWS) – Daphne Field Office, if any listed Federally protected species are found injured/dead within the project area.**

**m. Prior to commence of work, the Permittee must submit a submerged aquatic vegetation (SAV) survey of the project area. Should any SAV areas be identified, the Permittee must provide an avoidance/protection plan which must be approved by this office prior to commence of work.**

**n. Emergency procedures as outlined per section 33 CFR 325 Appendix C and 36 CFR 800.12 have been followed for compliance with Section 106 of the National Historic Preservation Act. The project sites are located within areas of high probability for the occurrence of cultural resources; therefore, a qualified archeologist shall be present to monitor construction activities. Should cultural resources be encountered during project activities, work shall cease and the Alabama State Historical Preservation Officer and this office shall be consulted immediately. This stipulation shall be placed on construction plans and its is the permittee's responsibility to ensure contractors are aware of this requirement. Please provide a report of the archeological monitoring and findings to this office, to the attention of Sandy P. Gibson, upon completion of construction and removal activities.**

**o. The Permittee shall provide documentation that the booms and associated piles are aligned to avoid and minimize impacts to any existing shrimp and/or fishery nursery areas, oyster reefs, fishery concentration areas, rookeries, and turtle nesting areas in the vicinity of the projects. If possible, booms should be aligned bayward of any of these existing resources/habitats to better protect them from water-borne oil.**

**p. The Permittee shall avoid any impacts to marsh adjacent to the project structures. The authorized booms and associated piles should not be placed in or through existing coastal marshes.**

**q. Boom structures and associated pilings should be maintained in good, working condition throughout the duration of their deployment. The Permittee will perform a daily inspection of the dike and boom structures and perform cleaning, maintenance and/or corrective action as needed to maintain the integrity of the structure. Removable elements requiring cleaning will be cleaned utilizing high-pressure hot water at a location which allows collection of contaminants by absorbent materials. Should repairs need to be made (e.g., retrieval and disposal of boom material that gets loose and washes into intertidal areas), they should be conducted in a manner that minimizes damage to marshes and other areas of high ecological value.**

**r. Prior to commencement of work, the Permittee and the assigns will evaluate the impact of the dike construction on incoming and outgoing tides to ensure the structures neither undermine privately-owned properties within the activities' vicinity, as well as, bridge abutments, supports and any other structures associated with the Dog River bridge which may pose either a public safety hazard or otherwise promote a diminished capacity. The shorelines adjacent to the current diversion dike shall be monitored for the life of the project. Should any adverse impacts be observed, the Permittee shall immediately inform this office and submit a report outlining corrective action. The report is due no later than 7 days of initial discovery.**

**s. As oil is collected by the booms, appropriate equipment and technology should be used to remove this oil at a frequency necessary to prevent potential migration of oil from storm events. Cleaning of booms should not take place in environmentally sensitive areas.**

**t. Adjacent aquatic resources shall be monitored and adverse impacts minimized to the maximum extent practicable. No building materials, tools or other equipment shall be stockpiled in wetlands or in other waters of the United States. All excess materials, tools and equipment shall be removed immediately upon completion of the activity. Any wetland areas shall not be used for the temporary storage of equipment or building supplies.**

**u. Within 30 days of the removal of the permitted booms, the Permittee shall submit a report to the Corps documenting any deviation from the permitted boom deployment plan. In addition, the report should document for each boom deployment location, the total number of linear feet of deployed booms that were fouled with oil residue. The report shall also provide a narrative documenting both how and where the booms were disposed.**

Finally, the report should provide a qualitative assessment concerning the effectiveness of the permitted booms in protecting the targeted estuarine areas.

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

w. The District Commander shall be notified in writing of the commencement and completion of the local oil response activities. The enclosed cards should be used for that purpose. Also enclosed is a Notice of Authorization which must be posted at the site during performance of the permitted work.

x. It is the Permittee's responsibility to ensure that the contractors working on this project are aware of all general conditions, special permit conditions and supporting guidance enclosed herein.

y. The work authorized by this emergency permit may be performed only if needed and used for containment operations associated with the Deepwater Horizon Oil Spill. No later than one (1) year after the date of this authorization, all fill and structures authorized by this permit shall be removed and the project site restored to as near pre-project conditions as practicable, as determined by the Corps after site inspection. Notification shall be given to the Mobile District Regulatory Division upon removal. It is the Permittee's responsibility to adequately document the pre-project site conditions and to demonstrate that the site restoration has been accomplished. No structures or temporary fill may remain in place without specific written authorization from the Corps

z. Should booms continue to be needed to arrest shoreward movement of oil for more than 12 months, authorization may be extended provided the applicant re-initiates review and coordination by the Corps of Engineers and other appropriate Federal and State resource agencies.

aa. Within 30 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed as-built Certification Form (Attached) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

(1) A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures.

(2) List any deviations between the work authorized by this permit and the work as constructed. In the event the completed work deviates, in any manner, from the authorized work, describe on the as-built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note the depiction and/or description of any deviations on the drawings and/or as-built Certification Form does not constitute approval of any deviations by the Corps.

(3) The Department of the Army Permit number.

(4) Include pre and post-construction aerial photographs of the project site, if available.

(5) Document each boom deployment location.

(6) The total number of linear feet of deployed booms that were fouled with oil residue.

(7) Provide a narrative documenting both how and where the booms were disposed.

(8) Provide a qualitative assessment concerning the effectiveness of the permitted booms in protecting targeted estuarine areas.

bb. Compliance with all terms and general and special conditions of this Permit is mandatory.

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.

\_\_\_\_\_  
(PERMITTEE) **MOBILE COUNTY COMMISSION**  
**MOBILE COUNTY ENGINEERING DEPT.**  
**205 GOVERNMENT STREET**  
**MOBILE, ALABAMA 36644-1600**

\_\_\_\_\_  
(DATE)

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

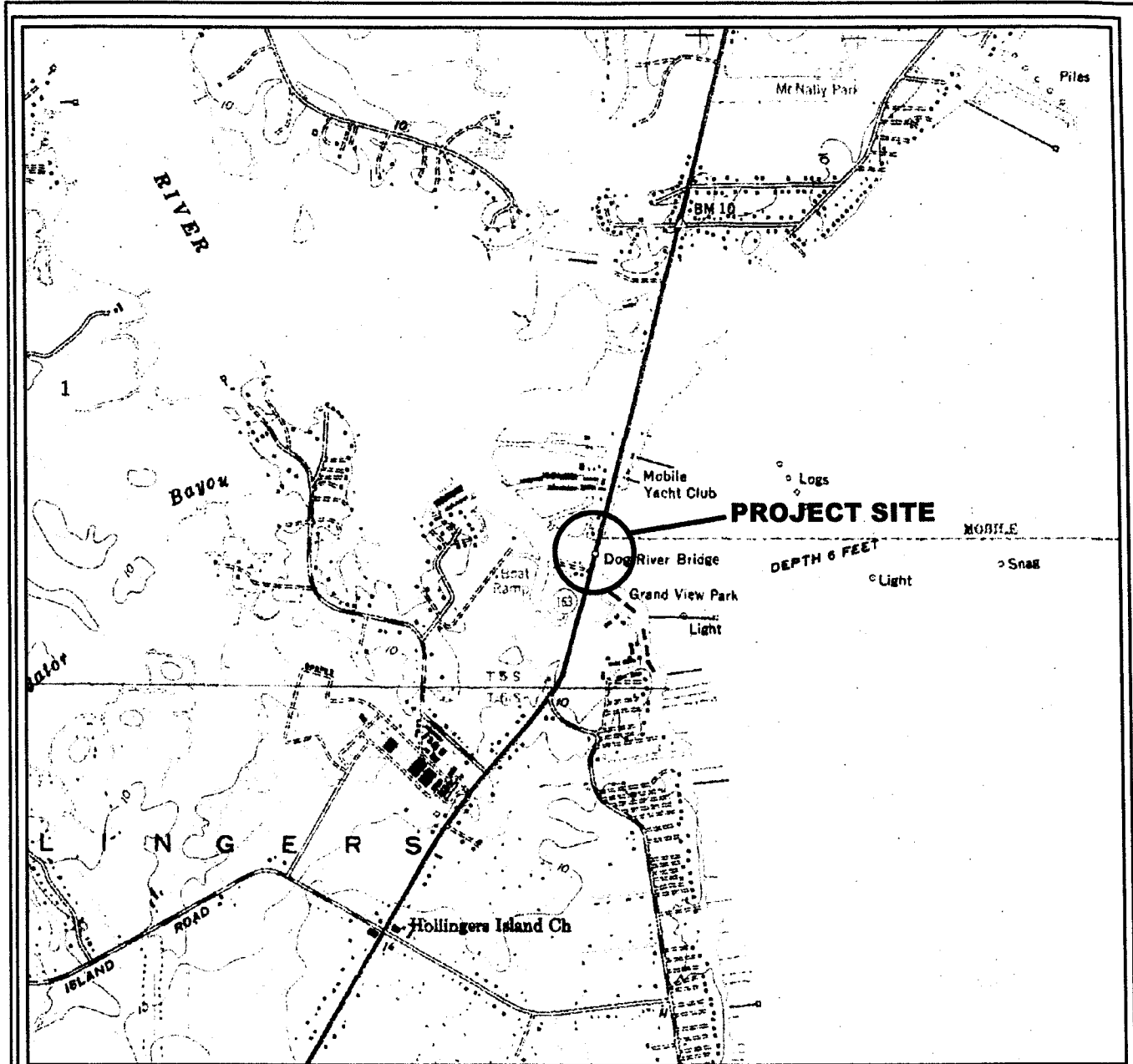
**STEVEN J. ROEMHILDT, P.E.**  
**COLONEL, CORPS OF ENGINEERS**  
**(DISTRICT COMMANDER)**

BY: \_\_\_\_\_  
**MUNTER N. SAHAWNEH** (DATE)  
**CHIEF, COASTAL BRANCH**  
**REGULATORY DIVISION**

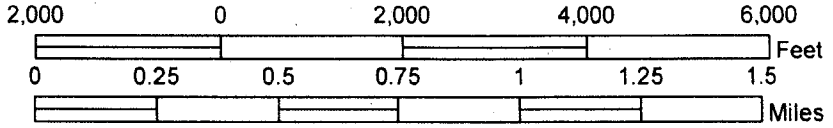
When the structures or work authorized by this permit (SAM-2010-01014-SPG) are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)



1:24,000



CONTOUR INTERVAL 10 FEET



(NOTE: EXTRACTED FROM HOLLINGERS ISLAND, ALABAMA QUADRANGLES, 7.5 MINUTE SERIES)

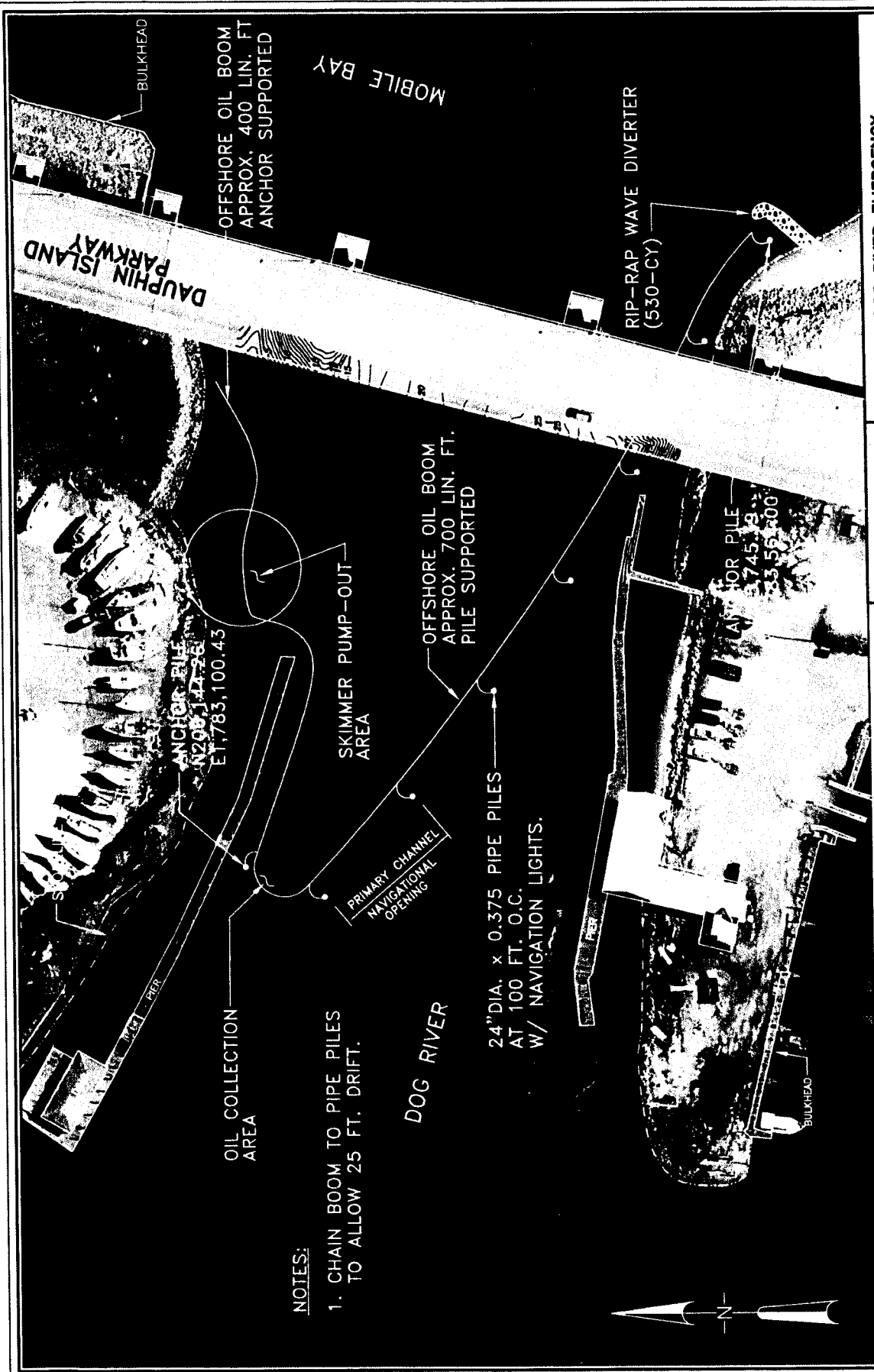
MOBILE COUNTY  
DOG RIVER OIL BOOM  
MOBILE COUNTY, ALABAMA

SITE VICINITY MAP

PROJECT NO.:  
10-2111-0066

DATE:  
JULY 2010

P:\2010\2111\10-2111-0066\DRAWINGS-DOG RIVER\DOG RIVER TOPO.mxd



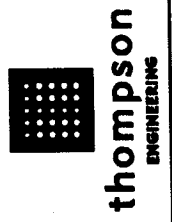
**NOTES:**

- 1. CHAIN BOOM TO PIPE PILES TO ALLOW 25 FT. DRIFT.

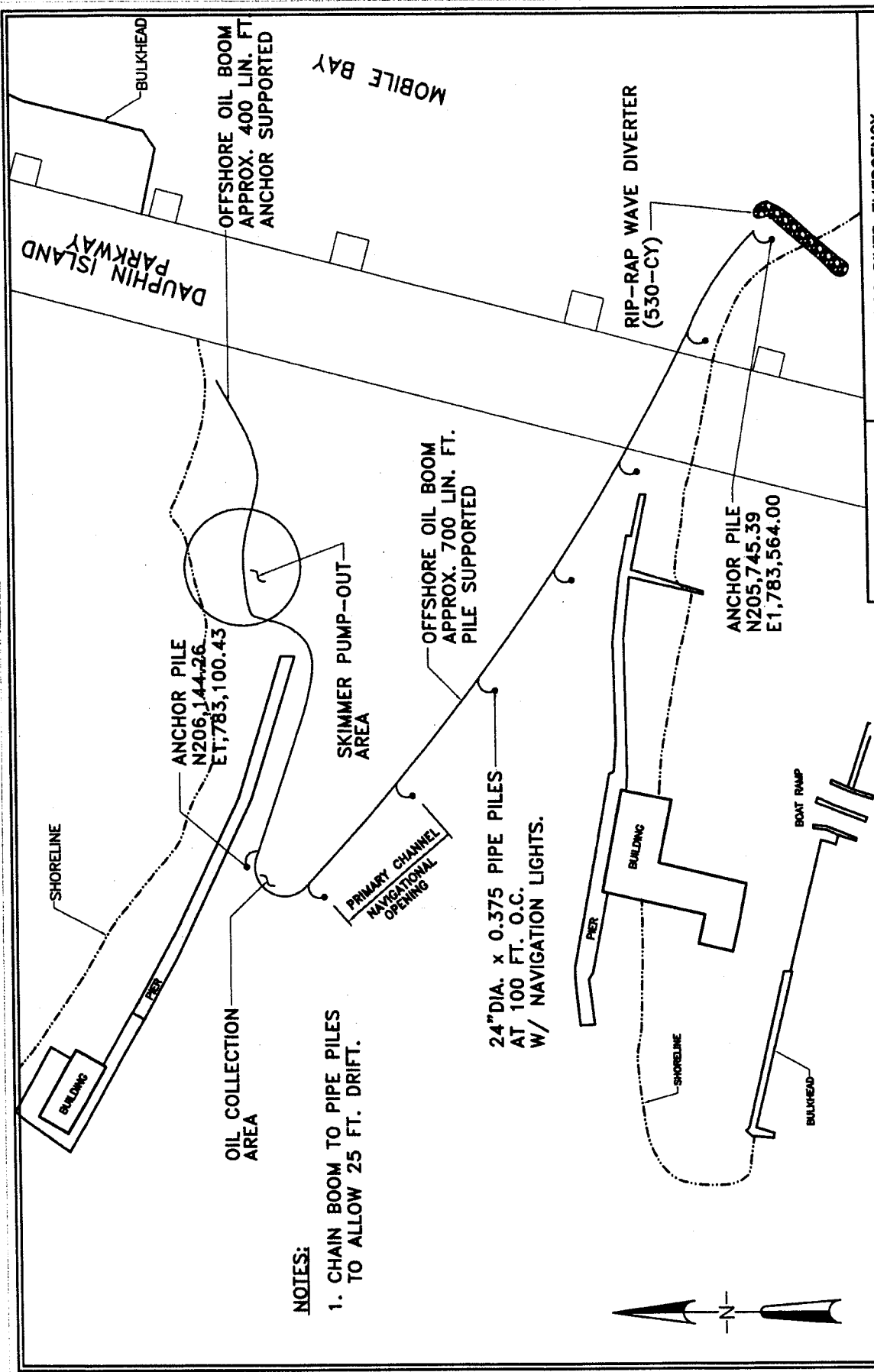
GRAPHIC SCALE



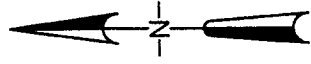
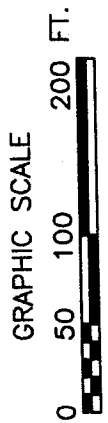
DOG RIVER EMERGENCY  
OIL PROTECTION PROJECT  
LAYOUT PLAN  
FIGURE 1




PROJECT NO. 10-2111-0066  
DATE: JULY, 2010



**NOTES:**  
 1. CHAIN BOOM TO PIPE PILES TO ALLOW 25 FT. DRIFT.





**thompson**  
ENGINEERING

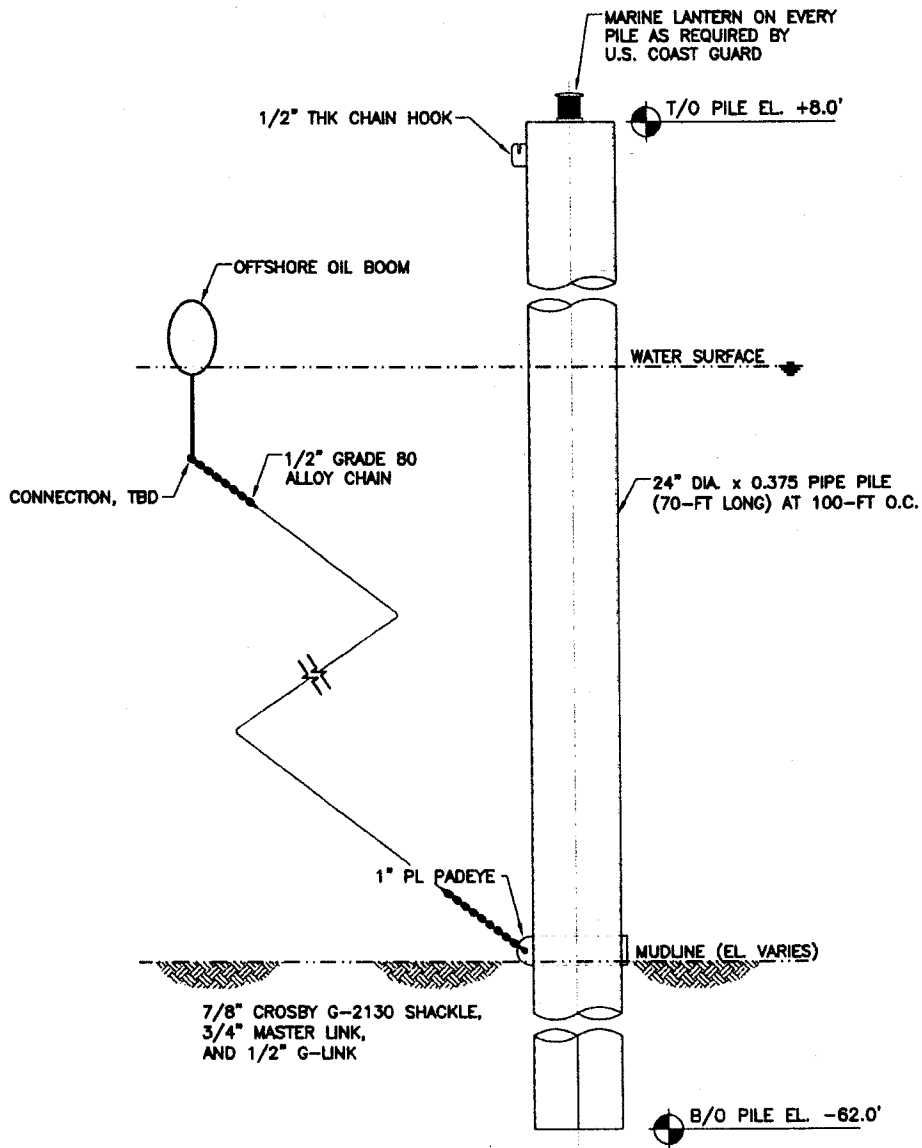
DOG RIVER EMERGENCY  
OIL PROTECTION PROJECT  
LAYOUT PLAN  
FIGURE 2

PROJECT NO: 10-2111-0066

DATE: JULY, 2010

GRAPHIC SCALE

0 50 100 200 FT.



### ANCHOR PILE DETAIL

SCALE: 1/4" = 1'-0"



**thompson**  
ENGINEERING

DOG AND FOWL RIVERS EMERGENCY  
OIL PROTECTION PROJECT  
ANCHOR PILE DETAIL  
FIGURE 5

PROJECT NO:  
10-2111-0066

DATE:  
JULY, 2010

**ALABAMA  
STANDARD MANATEE CONSTRUCTION CONDITIONS**

- a. The lessee/grantee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatees.
- b. The lessee/grantee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973.
- c. Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to, or exit from, essential habitat.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- e. If manatees are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure their protection. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.
- f. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service in Daphne (251-441-5181).
- g. Temporary signs concerning the manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the lessee/grantee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8½" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service in Daphne (251-441-5181).*

TEMPORARY MANATEE SIGNS  
for standard manatee construction conditions

**The *Caution: Manatee Area* signs are available through the companies listed below and may also be available from other local suppliers. Permit/lease holders, should contact sign companies directly to arrange for shipping and billing.**

Cape Coral Signs & Designs Inc.

1311 Del Prado Boulevard  
Cape Coral, Florida 33990  
1-800-813-9992  
FAX 813-772-9992

**Municipal Supply and Sign Company**

P.O. Box 17  
Naples, Florida 33939-1765  
1-800-329-5366  
813-262-4639  
FAX 813-262-4645

JADCO Signing Inc.

708 Commerce Way  
P.O. Box 911  
Jupiter, Florida 33458  
1-800-432-3404  
407-747-1065  
FAX 407-744-2985

The second sign should be at least 8½ inches by 11 inches, and should read:

*Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service in Daphne (251-441-5181).*

**An example is enclosed, and this example can be copied and used during construction activities.**

# CAUTION

## MANATEE HABITAT

IDLE SPEED IS REQUIRED IF OPERATING A VESSEL IN  
THE CONSTRUCTION AREA.

ALL EQUIPMENT MUST BE SHUTDOWN IF A MANATEE  
COMES WITHIN 50 FEET OF OPERATION.

ANY COLLISION WITH AND/OR INJURY TO A MANATEE SHALL BE  
REPORTED IMMEDIATELY TO THE U.S. FISH AND WILDLIFE  
SERVICE IN DAPHNE AT

251-441-5181

## Attachment 2

### Potential Emergency Response Activities and Recommendations for Minimizing Adverse Effects to Listed and Candidate Species and Designated Critical Habitat Areas

#### Use of Solidifiers

The Service has previously reviewed the biological evaluation prepared for Region 4 and the Caribbean Regional Response Teams for the Limited Pre-authorization and Use Policy for Chemical Countermeasures: Solidifiers, and concurred with the determination that endangered, threatened and candidate species are not likely to be adversely affected by this action.

#### Installation of Pilings, Docks or Other Manmade Structures

- a. Minimize onshore ground disturbing activities
- b. Minimize offshore area of impact
- c. Minimize removal of vegetation

#### Near Shore and Shoreline Prevention and Cleanup Response

1. **Sandy beaches, mixed sand and shell beaches.**
  - a. All work should be conducted during daylight hours to avoid disturbing nesting sea turtles, except within 24 hours of projected oil landfall
  - b. Operations at night (sunset to sunrise) shall be minimized and confined to just landward of the intertidal zone on both the Gulf and bay shorelines
  - c. No work should occur within a marked 10-foot sea turtle nest buffer zone (sea turtle nests will be clearly marked with stakes, flagging tape, and signs)
  - d. Locate staging areas off the beach, dunes, scrub and other vegetated areas
  - e. Avoid equipment, vehicles or foot traffic or disturbance in dune, scrub or other vegetated areas
  - f. Use only pre-identified access/egress areas and limit number
  - g. Avoid hovering or landing of aircraft near posted bird sites
  - h. Watercraft landings should be at designated entries and minimized in coordination with land managers or property owners
  - i. Move equipment and materials via roadways rather than via shorelines when feasible; if necessary to use the beach, move vehicles and equipment along the beach just landward of the wrack line
  - j. Ensure daily sea turtle nesting surveys and conservation activities are completed before work begins
  - k. Follow Sea Turtle Nesting Beaches protocol (attachment 4)
  - l. Follow Live Oiled Sea Turtle Response protocol (attachment 5)
  - m. Avoid all posted bird or plant sensitive areas; if necessary to enter request assistance from a trained biologist to minimize disturbance to nests or plants
  - n. Avoid use of mechanical equipment except for low tire pressure vehicles, such as ATV's and Gater 6x4's; if unavoidable, consult with the appropriate Field Office
  - o. Remove all materials to stop/soak up oil off the beach each night if they create barriers to nesting sea turtles approaching from the Gulf beach

- p. All floating oil absorbent materials or material placed to stop oil movement in the water shall be checked daily and prior to nightfall to ensure it remains floating during nighttime hours such that it does not create a barrier to animal movement
  - q. Drive at posted speed limits on coastal roads to reduce bird road kills
  - r. Locate site waste collection areas off the beach, dunes, scrub and other vegetated areas
  - s. Minimize removal of clean sediments
  - t. Consult with the appropriate Field Office if oil removal is required in any dune areas
  - u. Take preventative measures to avoid oiling of sea turtle, brown pelican, wintering piping plovers and shorebird nesting areas
  - v. Ensure that all excavations and temporary alteration of beach topography are filled, covered, or leveled to the natural beach profile prior to 8:00 p.m. each day
  - w. All vessels associated with oil spill response and cleanup shall operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow deep-water routes whenever possible
- 2. Marsh Fringe, Open-water Areas between Broken Marsh, Bayside shorelines**
- a. All work should be conducted from boats; avoid foot traffic in vegetated areas
  - b. Land or stage boats to avoid crushing the vegetation
  - c. All vessels associated with oil spill response and cleanup shall operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow deep-water routes whenever possible
  - d. Avoid disturbing any marsh soils or peat
  - e. Avoid hovering or landing of aircraft near posted bird sites
  - f. During flushing, prevent suspension of bottom sediments (avoid creating a muddy plume)
  - g. Avoid cutting of vegetation
  - h. Consult with the appropriate Field Office if necessary to clean oiled marshes
- 3. Tidal Flats**
- a. Avoid hovering or landing of aircraft near posted bird sites
  - b. Follow Marine Mammal Oil Spill Response Guidelines (attachment 6)
  - c. Minimize removal of clean sediments
  - d. Clean-up high priority bird feeding/nesting areas with low/no chemical use when possible
  - e. Consult with the appropriate Field Office if cleanup of tidal flats is necessary
- 4. Man-made Shorelines in Industrial Areas (e.g., riprap, seawalls, pilings, docks)**
- a. Follow Marine Mammal Oil Spill Response Guidelines (attachment 6)
  - b. Properly anchor and secure booms
- 5. Residential Areas/High Public Use Shoreline Areas (excluding beaches)**
- a. Drive at posted speed limits on coastal roads to reduce bird road kills
  - b. Follow Marine Mammal Oil Spill Response Guidelines (attachment 6)

- c. Properly anchor and secure booms
- d. Clean high priority bird feeding/nesting areas with low/no chemical use when possible
- e. Use barriers and signs to prevent people traffic in oiled areas

**6. Interior Forested or Shrub/Scrub Cleanup Response**

- a. Activities that may require removal of forested and shrub or scrub habitat should be minimized
- b. If burning is used, protect potential LA black bear den trees (any tree greater or equal to 36" dbh) with a rake line around its base at least 10 feet away from trunk
- c. If bears are observed during response activities contact the local Field Office and/or the State Wildlife Agency
- d. Avoid removing or damaging potential LA black bear den trees (any tree greater or equal to 36" dbh) when feasible (e.g., adjust heavy equipment ingress and egress routes accordingly)
- e. Remove all trash or anything that would attract wildlife from the work areas daily before ceasing operations
- f. If work is conducted during the denning season for LA black bears (December – April), consult with the Louisiana Field Office

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

APPLICANT: MOBILE COUNTY COMMISSION		File Number: SAM-2010-01014-SPG	Date: July 18, 2010
Attached is:			See Section below
<b>XX</b>	<b>INITIAL PROFFERED PERMIT (Standard Permit)</b>		<b>A</b>
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	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://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 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:

**SANDY P. GIBSON**  
**CEAM-RD-C-A**  
**U.S. ARMY CORPS OF ENGINEERS**  
**POST OFFICE BOX 2288**  
**MOBILE, ALABAMA 36601-2228**  
**(251) 690-2658**

**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 agent.	Date:	Telephone number:
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