



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

May 8, 2010

Coastal Branch
Regulatory Division

SUBJECT: Emergency Department of the Army Letter of Permission Number SAM-2010-00677-SBC, BP America, Inc., Mobile Bay/Gulf of Mexico

BP America, Inc.
Attention: Mr. John Putnam
501 Westlake Park
Houston, TX 77079

Dear Mr. Putman:

Reference is made to your request for a Department of the Army (DA) emergency authorization to install pilings at the mouth of Mobile Bay for the purpose of anchoring floating containment booms. The pilings will be 24-inch salt-treated timbers spaced at intervals of approximately two hundred (200) feet and will anchor floating containment booms. The locations of individual pilings will be recorded via GPS after installation. A manually operated gate system consisting of booms and operated by boat would be installed where the containment fences intersect with the ship channel. The gate system will remain open unless closed by the U.S. Coast Guard and/or the Captain of the Port. All structures would be removed within one year of dated of DA authorization. The project is located at the southern end of Mobile Bay, between the Fort Morgan peninsula and Dauphin Island. More specifically the project is located in Section 22, Township 9 South, Range 1 East, Mobile and Baldwin Counties, Alabama (Latitude 30.2398 North and Longitude -88.0523 West). This project has been assigned number SAM-2010-00677-SBC, which should be referred to in all future correspondence. This work is being conducted as a result of the Transocean Deepwater Horizon Drilling Incident (Gulf of Mexico, Mississippi Canyon 252).

Upon the recommendation of the Chief of Engineers and under the provisions of Section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403) and pursuant to emergency procedures outlined in 33 CFR 325.2(e)(4), you are hereby authorized by the Secretary of the Army to perform this work in accordance with your submitted data and plans, the enclosed General Conditions and the following 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 this activity cannot be in full compliance with 33 CFR 163 which requires that the activity not infringe upon navigation on the waterway, the permittee will maintain a 24-hour system that will insure access to the Federal Channel unless the waterway is closed by the U. S. Coast Guard.

c. Your project is located in State-owned water bottoms and may require a lease or other permission from the State of Alabama, Alabama Department of Conservation and Natural Resources (ADCNR). They can be contacted at: ADCNR, State Lands Division, 64 Union Street, Montgomery, Alabama 36130, telephone number (334) 242-3484.

d. 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. Each piling shall be lighted in accordance with U.S. Coast Guard specifications to prevent the structures from being a hazard to mariners. The structures must be permitted with D8 Private Aids to Navigation.

e. Location of all pilings placed in waters of the United States shall be recorded and an "as built" survey shall be provided to this office showing the GPS location of each piling. This survey shall be provided within 10 days of the completion of piling installation.

f. The permittee will perform a daily inspection of the entire boom structure and perform maintenance and/or corrective action as needed to maintain the integrity of the structure. Any loose/damaged material will be immediately removed from the waterway so it will not become a hazard to navigation.

g. The vegetated dunes on the Fort Morgan peninsula are to be avoided to the greatest extent possible during construction and staging activities. No building materials, tools or other equipment shall be stockpiled on vegetated dunes, 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.

h. The permittee will coordinate to the greatest extent practicable with the U. S. Fish and Wildlife Service (USFWS) to insure avoidance of impacts to critical habitat for Threatened and Endangered Species. The USFWS has requested to be informed before any actual work takes place at Ft. Morgan as this is an area of special concern. USFWS contact: Patric Harper at telephone (251) 441-5857 or cell (251) 424-0716. Address: USFWS/Daphne Field Office, 1208-B Main St., Daphne, AL 36526

i. 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. To the greatest extent possible, the below listed locations of cultural resources shall be avoided:

(1) Submerged cultural resources: Historic sunken vessels including the USS Tecumseh which is listed on the National Register of Historic Places and the CSS Gaines are both within the area marked "Anchorage for Explosives" noted on navigation maps north of Fort Morgan.

Specifically the coordinates of the USS Tecumseh are (30° 13' 54.444" -88° 1' 33.384") and the site is marked by a buoy. No coordinates for the CSS Gaines are available but it is located near shore on the eastern boundary of the "Anchorage for Explosives" area.

(2) Upland cultural resources: There are several previously recorded upland historic and archaeological sites located in areas that may be utilized as lay equipment and tie down areas. As soon as upland work areas are identified, the permittee shall contact the Mobile District for assistance in avoiding sensitive areas including Fort Gaines which is listed on the NRHP and is located on the eastern tip of Dauphin Island and Fort Morgan which is a National Historic Landmark and located near Mobile Point.

j. The permittee and assigns shall assure compliance with applicable State water quality standards and best management practices to prevent the discharge of sediments and other pollutants into waters of the United States.

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

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

m. It is the permittee's responsibility to ensure that the contractors strictly adhere to the approved construction staging location and construction/debris removal access route.

n. All pilings shall be removed within one year of the date of this authorization. At the time of removal, any areas affected by this permitted action or during its implementation shall be restored to pre-construction conditions.

The statements contained herein do not convey any property rights or any exclusive privileges and do not authorize any injury to property or obviate the requirements to obtain other local, State or Federal assent required by law.

The District Commander shall be notified promptly in writing at the commencement and completion of the work. The enclosed cards may be used for that purpose. Also, the enclosed Notice of Authorization must be posted at the site during construction of the permitted activity. If the scope of work or project location changes, you are urged to contact this office for a verification of this determination.

If the activity authorized herein is not completed on or before May 8, 2011, this permit, if not previously revoked or specifically extended, shall automatically expire.

If you have any questions or require further information concerning this matter, please contact Mr. Munther S. Sahawneh at (251) 690-2658. For additional information about our Regulatory Program, please visit our web site at: www.sam.usace.army.mil/rd/reg/regulations.htm 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.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

BYRON G. JORNS
Colonel, Corps of Engineers
District Engineer

BY: _____
MUNTER N. SAHAWNEH
Chief, Coastal Branch
Regulatory Division

Enclosures

Copy Furnished:

Alabama Department of
Environmental Management
Coastal Facilities Section
4171 Commanders Drive
Attention: Mr. Scott Brown
Mobile, Alabama 36615-1421

File Number: SAM-2010-00677-SBC
Permittee: BP America, Inc.

PERMIT GENERAL CONDITIONS / INFORMATION

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on **May 8, 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 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.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
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.

Permit General Conditions / Information

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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.
