



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

REPLY TO
ATTENTION OF

July 1, 2010

Coastal Branch
Regulatory Division

SUBJECT: Department of the Army Letter of Permission Number SAM-2010-00952-SPG,
City of Ocean Springs

City of Ocean Springs
Attention: Honorable Connie Moran
Post Office 1800
Ocean Springs, Mississippi 39566

Honorable Moran:

Reference is made to your request for a Department of the Army (DA) permit to temporarily install 12,000 feet of oil resistant boom across three sections of Biloxi Bay and Davis Bayou, south of Ocean Springs, in Jackson County, Mississippi. The project would include the placement of anchors seaward and shoreward with anchor spacing approximated at 100-foot spacing on center. The boom will be constructed of vinyl covered geotextile fabric covering a 30- to 36-inch floatation member, with an impermeable skirt ranging 12 to 24 inches below the water surface. From the water surface to a minimum of 1-foot above the mud line, the skirt will be fabricated with either impermeable geo-membrane or oleophilic, water permeable geotextile fabric. The skirt will provide a 1-foot clearance from the mud line at 0.0 Mean Lower Low Water (MLLW). The Federal Navigation channel opening will not be blocked. A 250-foot long deployable boom will remain at standby if the USCG or other entity authorizes closure. The western-most segment of the project will originate from Deer Island in Jackson County, (Latitude: 30.371471, Longitude: -88.830764), Mississippi and extend southeasterly towards the Federal Navigation channel. The center segment will originate from Marsh Point (Latitude: 30.383670, Longitude: -88.808118) and extend southwesterly towards the Federal Navigation channel. The eastern-most segment of the project will originate south of the city of Ocean Springs (Latitude: 30.395630, Longitude: -88.812290), and extends across Davis Bayou to Marsh Point, in Jackson County, Mississippi. [*Project coordinates have been approximated.*]. The purpose of the project is install oil resistant boom in order to protect Davis Bayou, Biloxi Bay and Back Bay from oil and oil residues released from the Deepwater Horizon oil spill (Mississippi Canyon 252). The protective boom will direct oil to areas where it can be removed by skimmers or other technology.

Upon the recommendation of the Chief of Engineers and under the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), you are hereby authorized by the Secretary of the Army to perform this work in accordance with your submitted data and plans. The authorized work is subject to 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. The permittee shall provide an "as-built" drawing with Global Positioning System (GPS) coordinates provided for the structures.

c. 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.

d. All structures 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. Should anchors, associated with booming operations, continue to be needed to arrest shoreward movement of oil for more than one year from the date of this authorization, authorization may be extended provided the permittee re-initiates review and coordination by the Corps and other appropriate Federal and State resource agencies.

e. Booms and associated anchors should not be placed in or through existing coastal marshes.

f. Work activities shall be conducted to the greatest extent practicable with minimal equipment intrusion onto the Gulf beach, dunes or bay shorelines.

g. All floating oil absorbent materials placed to stop oil movement in the water shall be checked daily and prior to nightfall to ensure it remains floating during nighttime hours so as not to create a barrier to animal movement.

h. When practicable, all fabric panels deployed below the water surface shall be monitored for entrapped fish and wildlife. Please notify the U.S. Fish and Wildlife Service (FWS) – Mississippi Field Office at (601) 321-1132, if any listed Federally protected species are found injured/dead within the project area (i.e., Gulf Sturgeon, manatees, sea turtles).

i. It is recommended that a minimum 1-foot gap be maintained between the bottom of the fabric panels and their horizontal supports and the bay bottom unless on-site conditions dictate otherwise.

j. Any floating boom-like structures placed in waters adjacent to turtle nesting beaches shall be placed as far offshore as possible and must remain floating at all times.

k. The permittee shall reference and implement actions identified in Attachment 2 of the Emergency Response Activities and Recommendations for Minimizing Adverse Effects

to Listed and Candidate Species and Designated Critical Habitat Areas, specifically Shoreline Protection - Section 1, prior to construction on beaches identified as critical habitat for threatened and endangered species, copy enclosed.

l. The permittee shall reference and implement actions identified in Attachment 4 of the Emergency Response Activities and Recommendations for Minimizing Adverse Effects to Listed and Candidate Species and Designated Critical Habitat Areas, specifically Sea Turtle Nesting Beach Survey and Turtle/Nest Protection Protocols. Additionally, the permittee shall conduct sea turtle surveys within any onshore construction, staging and access areas prior to commencement of the construction activities and avoid impacts to the maximum extent practicable, copy enclosed.

m. Abide by conditions and preventive measures identified on the Supplement Project Description under Appendix C.

n. The permittee shall 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 FWS (509) 434-9629.

o. Emergency procedures as outlined per section 33 CFR 325 Appendix C and 36 CFR 800 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 Mississippi State Historical Preservation Officer and this office shall be consulted immediately. This stipulation shall be placed on construction plans and it is the permittee's responsibility to ensure contractors are aware of this requirement. Please provide a report of archeological monitoring and findings to this office, to the attention of Sandy P. Gibson, upon completion of construction and removal activities.

p. Posts, associated vertical sorbent fabric fencing and sorbent booms shall be positioned as far Gulf-ward of existing marsh as possible, while still allowing for accomplishment of oil intercept objective, to minimize further impacts to existing marsh resulting from actual construction, emergency boat and other equipment traffic and clean-up activities.

q. Booms and associated anchors should be 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 Gulfward of any of these existing resources/habitats to better protect them from water-borne oil.

r. Appropriate spacing should be allowed for between overlapping fencing/boom structures for fish and wildlife passage. Potential impacts of the structures on fish and wildlife passage should be monitored for the duration of their deployment.

s. In light of the potential impacts of the vertical sorbent on fish and wildlife ingress and egress, it is recommended that deployment of the vertical sorbent fabric be held off until conditions indicate that the oil will soon reach the area. Posts to support vertical sorbent fabric could be deployed in advance, to help expedite later deployment of the vertical sorbent fabric fencing. Wildlife or other marine organism strandings are to be reported immediately to the appropriate State and Federal resource agencies.

t. Structures shall be maintained in good, working condition throughout the duration of their deployment. Should repairs need to be made (e.g., retrieval and disposal of sorbent and boom materials), they shall be conducted in a manner that avoids or minimizes damage to seagrass beds, tidal flats and marshes. Cleaning of the sorbent fabric fencing and sorbent booms and/or associated structures shall not take place in environmentally sensitive areas.

u. Posts and associated structures shall be identified by appropriate signage and lighting, per U.S. Coast Guard specifications. All warning lights attached to the booms should be oriented downward as much as practicable.

v. As oil is collected by the sorbent fencing, appropriate equipment and technology, e.g., skimmer boats, should be used to quickly remove this oil at a frequency necessary to prevent potential migration of oil from storm events.

w. Within 30 days of the removal of the permitted vertical sorbent fabric fencing and sorbent 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 fabric fencing and 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 sorbent fabric fencing and sorbent booms in protecting the targeted estuarine areas.

Please read this letter carefully and comply with its provisions. This permit is issued under provision of the Federal laws for the protection and preservation of the navigable waters of the United States. These laws provide after the proposed work has been approved by issuance of a DA permit, it shall not be lawful to deviate from such plans either before or after completion of the work, unless modification of said plans has previously been submitted to and received the approval of the DA.

You should study and carefully adhere to all the terms and conditions of the permit. The District Commander must be notified of the commencement and completion of the permitted work. The enclosed cards may be used for that purpose. Also enclosed is a "NOTICE OF AUTHORIZATION" which must be conspicuously displayed at the site during construction of the permitted work. Compliance with this and other conditions of the permit is essential. Failure to submit the notices requested may result in its revocation.

If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Commander in order the revised plans may receive the approval required by law before work is begun.

If the activity authorized herein is not completed on or before June 30, 2011, this permit, if not previously revoked or specifically extended, shall automatically expire.

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 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.

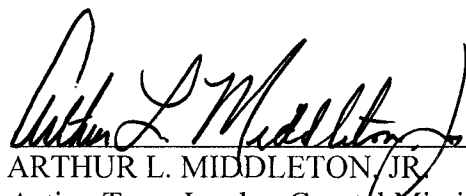
In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at 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 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 Sandy P. Gibson at (251) 694-3772, 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. Please take a moment to complete the enclosed our customer satisfaction survey. Your responses are appreciated and will allow us to improve our services.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

STEVEN J. ROEMHILTD, P.E.
Colonel, Corps of Engineers
District Commander

BY: 
ARTHUR L. MIDDLETON, JR.
Acting Team Leader, Coastal Mississippi
Regulatory Division

Enclosures

When the structures or work authorized by this permit (SAM-2010-00952-SPG) are still 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:

(TRANSFEEEE)

(DATE)

Copy Furnished:

Anchor QEA
Attention: Mr. David Keith
614 Magnolia Avenue
Ocean Springs, Mississippi 39564

Mississippi Department
of Marine Resources
Attention: Ms. Jennifer Clark Wittmann
1141 Bayview Avenue, Suite 101
Biloxi, Mississippi 39530

Mississippi Department of
Environmental Quality
Office of Pollution Control
Environmental Permits Division
Post Office Box 2261
Jackson, Mississippi 39225-2261



**This notice of authorization must be
conspicuously displayed at the site of work.**

United States Army Corps of Engineers

A permit to perform work authorized by statutes and regulations of the Department of the Army

at MISSISSIPPI SOUND, OCEAN SPRINGS, JACKSON COUNTY, MISSISSIPPI

has been issued to CITY OF OCEAN SPRINGS on JULY 01, 2010

Address of Permittee POST OFFICE BOX 1800, OCEAN SPRINGS JACKSON, MISSISSIPPI 39566

Permit Number

SAM-2010-00952-SPG

Sandy P. Gibson
For the District Commander

SANDY P. GIBSON
REGULATORY DIVISION, RD-C
(Proponent: CECW-0)

ENG FORM 4336, Jul 81 (33 CFR 320-330) EDITION OF JUL 70 MAY BE USED

**NOTICE OF COMPLETION OF WORK
AUTHORIZED BY PERMITS**

DATE

**NOTICE OF COMMENCEMENT OF WORK
AUTHORIZED BY PERMITS**

DATE

SAM-2010-00952-SPG

WORK AUTHORIZED UNDER DEPARTMENT OF THE ARMY PERMIT

DATED MISSISSIPPI SOUND, JACKSON COUNTY,
MISSISSIPPI

TO PERFORM WORK IN MISSISSIPPI SOUND, JACKSON COUNTY,
MISSISSIPPI

WAS COMMENCED ON _____

BY: _____
SIGNATURE

CESAM FORM 850
JUNE 87

File Number: SAM-2010-00952-SPG

Permittee: United States Environmental Services, LLC

PERMIT GENERAL CONDITIONS / INFORMATION

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends **JULY 1, 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.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

Permit General Conditions/Information

Page 2

- 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.

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

Attachment 4

Deepwater Horizon Oil Spill Response 2010
Sea Turtle Nesting Beach Survey and Turtle/Nest Protection Protocols
5 May 2010

This document primarily addresses loggerhead (*Caretta caretta*), green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), and leatherback (*Dermochelys coriacea*) sea turtle nesting beach surveys and turtle and nest protection efforts along Gulf of Mexico beaches in Florida (Escambia through Monroe County) and Alabama in response to the Deepwater Horizon Oil Spill in the Gulf of Mexico. Very little sea turtle nesting has been documented in Mississippi and Louisiana, and nesting surveys are not currently being conducted in these states. Nesting surveys are conducted in Texas, and these protocols, although specific to the Gulf Coast of Florida and Alabama, should be consulted if oil impacts occur there.

In Southwest Florida (Pinellas through Monroe County), nesting typically begins the first week in May. In the Florida Panhandle, Alabama, and Mississippi, the nesting season may begin as early as the second week of May but usually starts in mid- to late May, while in Texas it may begin in mid- to late April. Nesting continues through the end of August. Hatching of sea turtle nests begins in July and continues through October.

The following protocols should be followed for the 2010 nesting season:

1. Conducting Nesting Beach Surveys

Until such time as beaches are officially identified and designated as oiled, nesting surveys will proceed as usual in accordance with existing sea turtle permitting guidelines (for Florida beaches, please consult the Florida Marine Turtle Conservation Guidelines available at http://myfwc.com/WildlifeHabitats/Seaturtle_ConservationGuide.htm; for Alabama beaches, please consult the Alabama Sea Turtle Conservation Manual available at <http://www.alabamaseaturtles.com/ASTconservationmanual.pdf>). If oil has been documented on a beach and the beach has been identified for clean-up activities, sea turtle permit holders will only be allowed to survey the beach for evidence of sea turtle nesting if they have taken the appropriate hazardous material training. Every effort will be made to ensure continued cooperation with the nesting survey network and to ensure continuity of the survey and nest inventory methods.

GPS coordinates for each nest will be taken weekly throughout the nesting season by an entity identified by the U.S. Fish and Wildlife Service (Service) or the Florida Fish and Wildlife Conservation Commission (FWC), as appropriate, on each nesting beach that could be exposed

to oil, has oil present, or has ongoing clean-up activities. Readings shall be taken using a sub-foot accuracy GPS unit centered in the middle of the marked area to ensure nests can be precisely relocated if markers are lost or vandalized.

2. Encountering Nesting Sea Turtles and/or Exposed Eggs on the Beach

If a nesting sea turtle is encountered on the beach while a sea turtle permit holder is conducting normal activities authorized under their existing sea turtle permits, the turtle should be observed to determine its condition after egg laying while it is covering its nest. Females that appear weak or injured might not complete the nesting process or may drop eggs on the beach. If a turtle has not yet nested or is in the process of nesting, then wait to check her condition. She may still be able to lay a clutch even in a distressed condition.

Any uncovered eggs in a nest on the beach should be carefully covered with damp sand. Loose eggs on the sand surface may be retrieved and properly buried in the beach from which the female was retrieved in accordance with the nest relocation protocols in the existing sea turtle permitting guidelines referenced in Section 1 above. The nest should be marked in accordance with existing sea turtle permitting guidelines (see Nest Marking protocols below).

If the nesting female appears to be oiled or in distress, please contact the regular stranding hotline for the State in which the turtle is located as indicated below.

Florida: Call FWC's 24-hour Wildlife Alert Number at 1-888-404-FWCC (1-888-404-3922). From 8 a.m. to 8 p.m., you may also page FWC directly by dialing 1-800-241-4653 and entering the ID# 274-4867. Please be sure to include your area code when paging.

Alabama: Call 1-866-732-8878 (1-866-SEA TURT).

Mississippi: Call Karen Mitchell of the National Marine Fisheries Service Pascagoula Lab at 228-549-1665 (office) or 228-341-0842 (cell).

Louisiana: Call Mandy Tumlin of the Louisiana Department of Wildlife and Fisheries at 337-962-7092 (cell).

Texas: Call the sea turtle recovery hotline at 1-866-887-8535 (1-866-TURTLES).

3. Protecting Nests

a. Nest Cleaning

Nests deposited on beaches that have oil evident on the surface but the sand in the area with the nest is mostly clean sand (80 to 99% clean) should be left in place and not relocated. Surface sands should be visually inspected for the presence of oil. If a nest is covered with oil, please call the number identified below for the State in which the nest is located; these organizations will in turn contact the local Incident Command System Hazmat clean-up crew to request the sand above the nest be removed and replaced with clean sand and take the appropriate steps for chain-of-custody documentation.

Florida: Call FWC's 24-hour Wildlife Alert Number at 1-888-404-FWCC (1-888-404-3922). From 8 a.m. to 8 p.m., you may also page FWC directly by dialing 1-800-241-4653 and entering the ID# 274-4867. Please be sure to include your area code when paging.

Alabama: Call Dianne Ingram of the U.S. Fish and Wildlife Service Daphne Ecological Services Field Office at 251-441-5839 (office) or 251-709-4583 (cell).

Mississippi: Call Karen Mitchell of the National Marine Fisheries Service Pascagoula Lab at 228-549-1665 (office) or 228-341-0842 (cell).

Louisiana: Call Mandy Tumlin of the Louisiana Department of Wildlife and Fisheries at 337-962-7092 (cell).

Texas: Call the sea turtle recovery hotline at 1-866-887-8535 (1-866-TURTLES).

Upon arrival at the scene, the designated Hazmat clean-up crew should gently remove the contaminated sand by hand and replace it with clean, damp sand. They should dig only as deep as necessary to remove the contaminated sand, and avoid digging to the top of the clutch if possible. The contaminated sand should be collected in accordance with approved evidentiary procedures. Any oil within 10 feet of the nest should be cleaned by hand.

b. Nest Relocation

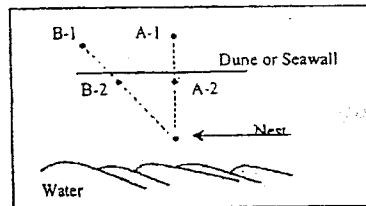
Nest relocation will proceed in accordance with the existing sea turtle permitting guidelines referenced in Section 1 above. The presence of oil on a beach in and of itself does not justify nest relocation. If a nest meets the standard criteria for relocation, it should be moved to an oil-free location and away from the path of heavy equipment involved in clean-up activities, in accordance with the State guidelines referenced above.

c. Nest Marking

Nest marking will proceed in accordance with the existing sea turtle permitting guidelines referenced in Section 1 above. However, all nests will need to be dug into following the procedures referenced in the State guidelines above to precisely determine the location of the nest for later screening with a restraining cage and for placement of back-up nest markers. In addition, if it appears that site clean-up activities will involve heavy equipment, an additional buffer area of approximately 10 feet should be established around the flagged nest perimeter.

At least one dual back-up marker system and ideally two dual back-up marker systems should be placed a measured distance from the clutch location (see Figure 1) to ensure that future location of the nest is possible should the nest perimeter stakes be lost. To place back-up nest markers, measure the exact distance from the precise nest location to two separate marking stakes on the dune that are aligned so that a straight line between them orients directly toward the location of the clutch (Figure 1). If the marine turtle permit holder is unable to locate the clutch by digging into the disturbed area and the clutch location is approximate, note the distance between the approximate clutch location and the edges of the disturbed area in each of four opposite directions. Both stakes should be labeled with an identifying nest number and the date the eggs were laid. On beaches where removal of marking stakes by the public is a potential problem, an additional stake, driven deeply and hidden from view, should be placed a measured distance landward of the first two. As added insurance, an aluminum marker can be buried hand-deep and 24 inches from the approximate clutch location in a standardized direction. This metal marker can be found later with a metal detector.

Figure 1. Site A stakes are directly landward of the nest in dune vegetation or at the base of a seawall. Site B stakes are in a similar position as Site A but located at an angle from the nest. Stakes A-1 and B-1 should be sunk deeply so that they are not conspicuous to someone not looking for them. Precisely measure the distance from stakes to the clutch location. Then, sink additional stakes (A-2 and B-2) directly between the clutch and the dune stake(s).



As noted in Section 1 above, GPS coordinates of each nest will be taken weekly throughout the nesting season by an entity identified by the Service or FWC, as appropriate, on each nesting beach that could be exposed to oil, has oil present, or has ongoing clean-up activities. Readings shall be taken using a sub-foot accuracy GPS unit centered in the middle of the marked area to ensure nests can be precisely relocated if nest markers are lost or vandalized. However, nest surveyors should still take GPS reading themselves if this is part of their normal nest marking routine.

All marked nests should be checked daily to ensure that marking materials remain in place and are intact and to determine whether oil is present. In the event that nest markers are lost due to high tides or storms, the sea turtle permit holder shall coordinate with sea turtle permitting agency to re-establish the nest location using the secondary dune or landward marker, existing landmarks, and confirm the location using existing GPS readings.

d. Nest Caging

Due to the uncertainty of which beaches will become oiled and concern that emergent hatchlings may depart from the nesting beach and encounter oil in the water, nests may need to be screened with restraining cages to enable collection of hatchlings at emergence should alternative release sites be necessary, depending on the location and extent of the oil spill.

Depending on oil spill conditions in the coming weeks, determinations regarding the disposition of hatchlings (i.e., allow to enter the beach at the nest site or relocate hatchlings elsewhere) will be forthcoming.

4. Nest Inventories

Nest inventories in Florida and Alabama should be conducted in accordance with the existing sea turtle permitting guidelines referenced in Section 1 above. However, when permit holders find an entire nest that did not hatch or that has greater than 15 dead or pipped dead hatchlings, regardless of whether the beach was ever oiled or not, they should put the entire nest contents back in the nest cavity, re-cover the cavity with clean sand, ensure the nest markings are still in place and secure, and call the number identified below for the State in which the nest is located to request completion of the nest inventory (Exception: any live or live pipped hatchlings in the nest should be handled in accordance with the existing sea turtle permitting guidelines referenced in Section 1 above). The rationale for this is that even if the beach was not oiled, the female that laid the nest may have come into contact with oil in the water and the nest may have been contaminated.

Florida: Call FWC's pager from 8 a.m. to 8 p.m., by dialing 1-800-241-4653 and entering the ID# 274-4867. Please be sure to include your area code when paging.

Alabama: Call Dianne Ingram of the U.S. Fish and Wildlife Service's Daphne Ecological Services Field Office at 251-441-5839 (office) or 251-709-4583 (cell). If no answer, leave detailed message of caller's contact information and nest number.

The individual responding to a permit holder call and subsequently collecting the nest contents should follow the Oiled Sea Turtle Nest Evidence Collection Protocol.

Appendix C

Environmental Assessment

Joint Permit Application from the City of Ocean Springs and Jackson County MS to install Protective Booms in Biloxi Bay.

Impacts to Benthos. The boom will be designed based on current bathymetry to provide a minimum of one (1) foot clearance above the mud line at Mean Lower Low Water (MLLW). The boom will be anchored on 100-foot spacing with 2 anchors, landward and seaward of the alignment. The anchors and boom system will be deployed by floating marine plant and retrieved at the end of the deployment. Minimal impacts on benthos are associated with the boom deployment.

Impacts to Aquatic Vegetation. The areas near the terminus at land will be surveyed for submerged aquatic vegetation (SAV) prior to installation. The alignment will be altered to avoid SAV's. No known SAV's exist at the planned land terminus locations.

Impacts to Threatened and Endangered Species. Any effects would be temporary in nature and avoided by the use of best management practices. The installed boom alignments will be monitored daily to document any dead or trapped fish species. Openings will be maintained at the navigation channels and a minimum of 1 foot above the mud line for fish migration. Increased clearances will be available during high tide events.

Impacts to Wetland Vegetation. The boom will be attached on either end to sandy beaches or in the case of Marsh Point, will be anchored in or adjacent to wetland vegetation. Placing anchors in wetland vegetation will be avoided, if possible, crossing the wetland with steel cables or chains and attaching to anchors placed below (deeper than) the intertidal zone. Once temporary fill is removed, the locations will be returned to preexisting contours.

Continuation of Section 7. Project Schedule

Upon project completion, written notification will be given as to when the temporary anchor site fill will be removed.

Continuation of Section 11. Project Description

Impacts to Navigation

The installed boom will restrict recreational navigation during deployment. The boom will not be anchored across a Federal Navigation Channel (Biloxi East, West and Lateral Channels). All deployed booms will be lit in accordance with U.S. Coast Guard (USCG) light standards at night and in periods of reduced visibility with a row of yellow lights with the following criteria:

1. Flashing 50-70 times per minute
2. Visible all around the horizon
3. Visible for a minimum of 1 mile on a clear dark night
4. Spaced approximately 500 feet
5. Not more than 30 feet apart, if crossing a navigable channel.

Operations, Maintenance and Monitoring (OMM)

The installed boom alignments will be monitored daily, as required to meet operational and regulatory requirements, adjusting the boom anchor system and repairing damaged or non-functional segments.

The OMM program will include the following elements and requirements:

- Comply with the Live Oiled Sea Turtle Response Guidelines issued by NOAA Fisheries and the US Fish and Wildlife Service dated 5/9/2010.
- 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 and not create a barrier to animal movement.
- Monitored daily for entrapped fish and wildlife.
- Marked with appropriate USCG lighting standards.
- Monitored daily for floatation and the presence of oil and report to the regional incident commander.

Permit Request Conditions

The City and County are requesting an emergency permit to implement protective measures to avoid adverse impacts to ecological and economic resources due to the Deep Horizon Gulf Spill. On Saturday, June 29, 2010, oil was observed approaching sensitive areas without adequate protective measures. These measures must be implemented as soon as possible to avoid an immediate and significant economic impact; the lack of protective measures was an "unseen" condition for reasons outside the local government's control.

Section 13. Approval and Certification Note

Summary of Agency Coordination

On Monday, June 28, 2010, Anchor QEA participated in a pre-application meeting with the Mississippi Departments of Marine Resources (DMR) and Environmental Quality (DEQ) along with the U.S. Army Corps of Engineers (USACE)

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

Applicant: CITY OF OCEAN SPRINGS		File Number: SAM-2010-00952-SPG	Date: 07/01/2010
Attached is:		See Section below	
XX	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	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:

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

If you only have questions regarding the appeal process you may also contact:

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: