

ADDENDUM TO THE

**ENVIRONMENTAL ASSESSMENT, 404(B)(1) ANALYSIS, STATEMENT OF FINDINGS, AND
DECISION DOCUMENT**

DATED 23 MAY 2007

This document constitutes my Environmental Assessment (EA), Finding of No Significant Impact (FONSI), Statement of Findings (SOF), and review and compliance determination according to the 404(b)(1) guidelines for the proposed Regional General Permit (RGP) SAM-20.

This permit action is being taken under authority delegated to the Mobile District Engineer by the Secretary of the Army and the Chief of Engineers by Title 33, Code of Federal Regulations, Parts 320 through 325, pursuant to Section 404 of the Clean Water Act.

The term "general permit" means a Department of the Army (DA) authorization that is issued on a nationwide or regional basis for a category of activities which are substantially similar in nature and cause only minimal individual and cumulative impacts. General permits are a way to reduce the burden of the regulatory program on the public and ensure timely issuance of permits while effectively protecting aquatic resources while administering the laws and regulations which establish and govern the program. An assessment of the cumulative impacts of work authorized under the general permit is performed at that time if it is in the public interest to do so. In most instances, anyone complying with the conditions of the general permit can receive project specific authorization. Anyone not complying with the conditions of a general permit may still receive authorization via a standard permit, but the application must be individually evaluated and coordinated with third parties, including the Federal and State resource agencies. Review of an application for a standard permit takes additional time to complete as issue resolution may be required.

1. Applicant: Those wishing to construct or expand residential building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures, within Hancock, Harrison, Jackson, Pearl River, Stone and George Counties, Mississippi.
2. Application Number: SAM-2006-02181-JWS
3. Location and Environmental Setting Without the RGP:
 - a. Location: Low-quality wetlands, outside the exclusion areas, and within Hancock, Harrison, Jackson, Pearl River, Stone and George Counties, Mississippi.
 - b. Environmental Setting Without the RGP: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.
4. Project Description, Changes to Project:
 - a. Project Description: The Mobile District proposes to reissue RGP SAM-20 (see Appendix B) that would authorize the discharge of dredged or fill materials into non-tidal waters of the United States for

the purpose of constructing residential developments in the lower six counties of Mississippi. The RGP would help reduce the regulatory burden for the recovery of Coastal Mississippi, due to Hurricane Katrina, while at the same time protecting aquatic resources and ensuring minimal aquatic impacts. The DA, Mobile District, U.S. Army Corps of Engineers (Corps), Regulatory Division proposes to reissue RGP SAM-20 for Residential Developments within the Mobile District, Regulatory Division's, Geographic Boundary of Hancock, Harrison, Jackson, Pearl River, Stone and George Counties, Mississippi to the full period of five years.

The RGP established a permit process where an applicant would complete the joint application with the State of Mississippi and submit it to the Corps along with all the required items specified in the terms and conditions of the permit. The required information would provide the Corps with knowledge that is normally not provided when an application for an Individual Permit (IP) is first received and is not a legal requirement for an application to be considered complete under the IP review process. If an application is reviewed under the IP process, a public notice is generated once an application is complete and additional information is generally requested after the close of the comment period for the public notice. By having required information such as: A wetland delineation, a wetland functional assessment, aerial photos, cultural resource survey and endangered species surveys submitted with the application, the Corps has much more information about site conditions than usually received with permit applications. This additional information allows for a more timely review under the RGP.

b. Changes to Project: No major changes are proposed to the issued RGP. However, due to two comments, in response to the public notice for reissuance, two special conditions have been updated.

Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for changes made to the original proposal.

5. Environmental Impact of the Proposed Action: Impacts associated with this RGP would be confined to low-quality wetlands of 3 acres or less.

Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

6. Project Purpose and Need:

a. Basic Project Purpose: To replenish the housing stock, in the wake of Hurricane Katrina, within the six lower Counties of Mississippi.

b. Overall Project Purpose: To streamline the regulatory process, in the wake of Hurricane Katrina, through the accelerated permitting of residential developments within the Corps, Mobile District, Regulatory Division's, Geographic Boundary of Hancock, Harrison, Jackson, Pearl River, Stone and George Counties, Mississippi.

c. Need: The main need for the proposed RGP is the immediate need for housing, post-Katrina. There has been great progress in rebuilding housing within the six counties, post-Katrina. The availability of this RGP for the next three years will ensure the Corps is responsive to any further needs of people still affected by the hurricane.

Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

7. Scope of Analysis: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

8. Federal, State and Other Authorizations Obtained, Required or Pending:

a. State water quality certification (401): By letter dated 28 March 2007 the Mississippi Department of Environmental Quality (DEQ), issued water quality certification.

b. Coastal Zone Management (CZM) Consistency Determination: By letter dated 14 March 2007 the Mississippi Department of Marine Resources (DMR) determined this RGP proposal to be consistent to the maximum extent practicable with the Mississippi CZM Program and therefore granted consistency certification. The DMR issued CZM even though the proposed RGP would exclude tidal waters because the geographic boundary covered by the RGP includes non-tidal areas included in Mississippi's definition of costal zone. Mississippi's coastal zone includes the three counties adjacent to the coast. The coastal zone includes these counties, as well as all adjacent coastal waters. Included in this definition are the barrier islands of the coast.

c. Other authorizations: No other Federal or State or Authorizations were required to issue this RGP.

9. Public Notice History: The proposal was initially distributed via Public Notice dated 10 October 2006. The initial comment period was until 10 November 2006. The public requested an extension for comments and the Corps granted this extension until 10 December 2006. This initial 60-day public comment period allowed the regulated public, Federal resource agencies, State resource agencies, non-governmental agencies and other interested parties time to review the merits of the proposal. As a result of receiving substantial comments (approximately 3,000) from the public, Federal resource agencies, State resource agencies, non-governmental agencies and other interested parties, changes were made to the proposed RGP-20. A new Public Notice was issued 9 February 2007 with comments due by 11 March 2007. As a result of this second public notice, we received approximately 450 comments from citizens throughout the United States. After careful consideration of all comments received, the Corps issued RGP SAM-20 23 May 2007 for an initial period of two years. The RGP was set to expire 23 May 2009. As a result of talks with State of Mississippi officials, the Corps believes there is still a need for the RGP in the six counties. Therefore, the Corps advertised a public notice, dated 20 February 2009 notifying the public of our intent to extend the RGP to the full five years. The comment period ended 23 March 2009. As a result of this public notice, the Corps received three comment letters. The three letters included two that pointed out special conditions that needed update and one that objected to the reissuance.

10. Public Notice Comments, Corps Analysis of Comments and Responses: Refer to the original EA, 404(b)(1) Analysis, SOF, and Decision Document, dated 23 May 2007 for a detailed outline of comments received in response to the original public notices.

The following comments were received in response to the 20 February 2009 public notice for reissuance.

a. **Corps Archaeologist:** The Corps archaeologist (Thomas Birchett) stated that the language used in section "p" clearance letter did not accurately describe the process to be used by the Corps in reviewing State comments. The accurate description of this step in the review process is that the Corps reviews SHPO and Tribal comments as part of our determination of whether a project should be approved.

Corps Response: The Corps will update condition “p” to reflect this comment.

b. **Wetland Resources Environmental Consulting (Gena Todia):** Ms. Todia responded to the public notice, via e-mail dated 23 February 2009. She stated, “Special Condition 29(b) should reference the new data forms included in the Interim Regional Supplement to the Corps' Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region rather than '87 Manual data forms. In light of the findings described in the newly released Status and Trends of Wetlands in the Coastal Watersheds of the Eastern United States, 1998-2004 (Stedman, S. and T.E. Dahl. 2008.), will any consideration be given to lowering the 3-acre limit?”

Corps Response: The Corps will update condition 29(b) to reflect this comment. In addition, the availability of this RGP for the next three years will ensure the Corps is responsive to any further needs of people still affected by Hurricane Katrina. Therefore, it was determined that the best course of action is to maintain the existing 3-acre limit for individual authorizations under this General Permit.

c. **Lawyers' Committee For Civil Rights Under Law:** The Lawyers' Committee for Civil Rights Under Law, on behalf of Gulf Restoration Network, Turkey Creek Community Initiatives and the North Gulfport Community Land Trust responded to the public notice, by letter dated 23 March 2009. The Lawyers' Committee for Civil Rights Under Law responded that: 1) Reissuance of the RGP is not needed due to (a) it not being used in the last two years, (b) the housing cycle has peaked or is past its peak in Harrison, Jackson and Hancock counties. 2) The RGP violates the Clean Water Act and the National Environmental Policy Act

Corps Response:

a. Although it is true the Corps has not issued a permit under the RGP, it is an option the Corps and State of Mississippi have determined the citizens of Mississippi could utilize for rebuilding efforts.

b. Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

11. Public Hearing Request: As a result of our 20 February 2009 public notice, there were no requests for a public hearing.

12. Alternatives Analysis [33 CFR 320.4(b), 40 CFR 230.10]: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

13. General Policies for Evaluating Permit Applications (33 CFR 320.4 (a-r)):

a. Public Interest Review: The consideration of conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and in general the needs and welfare of the people are outlined below. The decision whether

to reissue the RGP will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments.

Table 6 is a summary of our public interest review for the proposed activity, which assesses the impacts of the proposed action on environmental and other public interest factors (33 CFR 320.1(a)(1), 320.4 and 325.3(c)).

Table 6 Summary of Project Impacts

FACTORS	No Effect	Negligible	Undetermined	Beneficial Major/Minor	Adverse Major/Minor
1. Conservation		X			
2. Economics				X	
3. Aesthetics		X			
4. General Environmental Concerns					X
5. Wetlands					X
6. Cultural/Historical Properties	X				
7. Fish & Wildlife Values					X
8. Flood Hazards				X	
9. Floodplain Values	X				
10. Land Use					X
11. Navigation	X				
12. Shore erosion and accretion	X				
13. Recreation					X
14. Water Supply & Conservation					X
15. Water Quality		X			
16. Energy Needs		X			
17. Safety		X			
18. Food & Fiber Production					X
19. Mineral Needs		X			
20. Consideration of Property Ownership				X	
21. Public & Private Need for RGP				X	
22. Unresolved Conflicts/Alternative Methods	X				
23. Beneficial/Detrimental Effects		X			
24. Cumulative & Secondary Impacts		X			

(1) Conservation: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(2) Economics: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(3) Aesthetics: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(4) General Environmental Concerns: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(5) Wetlands: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(6) Cultural/Historical Properties: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(7) Fish and Wildlife Values: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(8) Flood Hazards: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(9) Floodplain Values: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(10) Land Use: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(11) Navigation: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(12) Shore Erosion and Accretion: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(13) Recreation: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(14) Water Supply and Conservation: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(15) Water Quality: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(16) Energy Needs: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(17) Safety: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(18) Food and Fiber Production: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(19) Mineral Needs: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(20) Considerations of Property Ownership: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(21) Relative Extent of the Public and Private Need for the Proposed RGP: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(22) Where there are Unresolved Conflicts as to Resource Use, the Practicability of Using Reasonable Alternative Locations and Methods to Accomplish the Objective of the RGP: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(23) The Extent and Permanence of the Beneficial and/or Detrimental Effects which the Proposed RGP is likely to have on the Public and Private Uses to which the Area is Suited: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(24) Cumulative Impacts: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

(25) Secondary Impacts: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

14. Public Interest Determination: The reissuance of the RGP has been determined not to be contrary to the public interest, as demonstrated above and in the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007. Therefore, its reissuance is warranted provided the original special conditions remain, with the exception of the following conditions that will change:

Special Condition (10) originally stated: No registered properties or properties listed as eligible for inclusion in the National Register of Historic Places shall be affected. Permit submittal must include either a Phase I survey or a letter from the State Historic Preservation Officer, for Mississippi, confirming that no impacts to known cultural/historical resources will occur on the project site. **Will now read: No registered properties or properties listed as eligible for inclusion in the National Register of Historic Places shall be affected. Permit submittal must include a Phase I survey.**

Special Condition 29 (b) originally stated: Data sheets, as outlined in the Corps' Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss., 1987 (87 Manual). **Will now read: Data forms, as outlined in the October 2008, Interim Regional Supplement to the Corps' Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region.**

Special Condition 29 (p) originally stated: A clearance letter from SHPO or Phase I survey. **Will now read: A Phase I survey.**

15. Consideration of Special Acts or Executive Orders (EO) Not Already Addressed:

a. Environment:

(1) Section 176(c) of the Clean Air Act General Conformity Rule Review: The project area is within a National Ambient Air Quality Standards attainment area and therefore does not require a conformity analysis pursuant to Section 176(c) of the Clean Air Act.

(2) Executive Order (EO) 11900 - Protection of Wetlands (1977): The purpose of this EO is to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of the wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. The evaluation of the proposed project, taking into account economic, environmental and other pertinent factors, indicate that (1) there is no practicable alternative to the proposed project, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

(3) EO 13158 - Marine Protected Areas (2000): The purpose of this EO is to help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and ecologically and economically sustainable use of the marine environment for future generations. This action will not affect any MPAs.

b. Other:

(1) EO 13175 - Consultation and Coordination with the Tribal Indian Governments: The purpose of this EO is to coordinate new construction with Indian Tribal Governments. This proposed work has been coordinated with Tribal Officials. The consultation indicates that there is no documentation directly linking Indian Religious Sites to the proposed activity. In the event any items falling under Native American Graves and Repatriation Act (NAGPRA) are discovered during construction, the RGP requires that the appropriate persons, including state and tribal NAGPRA representatives be notified immediately for further consultation.

(2) EO 12898 - Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations: The purposes of the EO are as follows:

- To focus the attention of Federal agencies on human health and environmental conditions in minority communities and low-income communities with the goal of achieving environmental justice.
- To foster nondiscrimination in Federal programs that substantially affect human health or the environment.
- To give minority communities and low-income communities greater opportunities for public participation in, and access to, public information on matters relating to human health and the environment.

As stated in the Council on Environmental Quality publication entitled, "Environmental Justice, Guidance Under the National Environmental Policy Act," dated 10 December 1997: Environmental justice concerns encompass a broad range of impacts covered by the National Environmental Policy Act (NEPA), including impacts on the natural or physical environment and interrelated social, cultural and economic effects. In preparing an EIS or an EA, agencies must consider both impacts on the natural and physical environment, such as human health or ecological impacts on minority populations, low-income populations and Indian tribes, or from related social or economic impacts. Agencies should recognize the question of whether agency action raises environmental justice issues is highly sensitive to the history or circumstances of a particular community or population, the particular type of environmental or human health impact, and the nature of the proposed action itself. There is not a standard formula for how environmental justice issues should be identified or addressed.

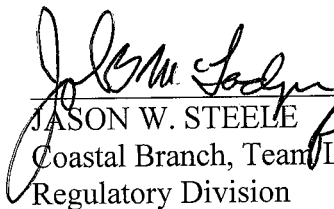
Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

16. Evaluation of the 404(b)(1) Guidelines: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.

17. Findings of 404(b)(1) Analysis: Refer to the original EA, 404(b)(1) Analysis, SOF and Decision Document, dated 23 May 2007 for a detailed analysis on this subject.


18. CONCLUSION/FONSI: Based on the above assessment, analysis and consideration of comments, and after weighing all factors involved in the proposal, I have concluded this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

PREPARED BY:



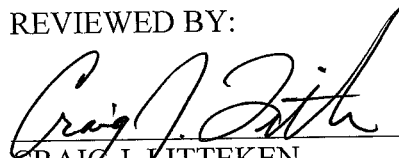
JASON W. STEELE
Coastal Branch, Team Leader
Regulatory Division

REVIEWED BY:



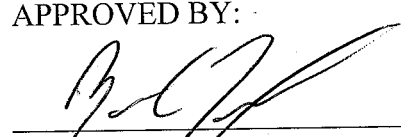
MUNTER N. SAHAWNEH
Coastal Branch, Branch Chief
Regulatory Division

REVIEWED BY:



CRAIG J. LITTEKEN
Chief, Regulatory Division

APPROVED BY:



BYRON G. JORNS
Colonel, Corps of Engineers
District Commander