DEPARTMENT OF NATURAL RESOURCES
COASTAL MANAGEMENT DIVISION
P.O. BOX 44487
BATON ROUGE, LOUISIANA 70804-4487
(225)342-7591
1-800-267-4019

COASTAL USE PERMIT/CONSISTENCY DETERMINATION

Coastal Use Permit – General Permit-20 (CUP-GP-20)

Name and Address: **Louisiana Department of Natural Resources**
Coastal Management Division
P.O. Box 44487, Baton Rouge, LA 70804

LOCATION: In the Louisiana Coastal Parishes of Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne and Vermilion.

DESCRIPTION: This General Permit provides for the oil field restoration activities including the construction and maintenance of ring levees, construction and maintenance of board roads, and dredging and maintenance dredging of access channels within the Coastal Zone of Louisiana.

In accordance with the rules and regulations of the Louisiana Coastal Resources Program and Louisiana R.S. 49, Sections 214.21 to 214.41, the State and Local Coastal Resources Management Act of 1978, as amended, the permitted agrees to:

1. Carry out, perform, operate and maintain the use in accordance with the permit conditions, plans and specifications approved by the Department of Natural Resources.
2. Comply with any permit conditions imposed by the Department of Natural Resources.
3. Adjust, alter, or remove any structure or other physical evidence of the permitted use if, in the opinion of the Department of Natural Resources, it proves to be beyond the scope of the use as approved or is abandoned.
4. Provide, if required by the Department of Natural Resources, an acceptable surety bond in an appropriate amount to ensure adjustment, alteration, or removal should the Department of Natural Resources determine it necessary.
5. Hold and save the State of Louisiana, the local government, the department, and their officers and employees harmless from any damage to persons or property which might result from the use, including the work, activity, or structure permitted.
6. Certify that the use has been completed in an acceptable and satisfactory manner and in accordance with the plans and specifications approved by the Department of Natural Resources. The Department of Natural Resources may, when appropriate, require such certification to be given by a registered professional engineer.
7. All terms of the permit shall be subject to all applicable federal and state laws and regulations.
8. This permit, or a copy thereof, shall be available for inspection at the site of work at all times during operations.
9. The applicant will notify the Coastal Management Division of the date on which initiation of the permitted activity described under the "Coastal Use Description" began. The applicant shall notify the Coastal Management Division by mailing the enclosed green initiation card on the date of initiation of the coastal use.
10. Unless specified elsewhere in this permit, this permit authorizes the initiation of the coastal use described under "Coastal Use Description" for two years from the date of the signature of the Secretary or his designee. If the coastal use is not initiated within this two year period, then this permit will expire and the applicant will be required to submit a new application. Initiation of the coastal use, for purposes of this permit, means the actual physical beginning of the use of activity for which the permit is required. Initiation does not include preparatory activities, such as movement of equipment onto the coastal use site, expenditure of funds, contracting out of work, or performing activities which by themselves do not require a permit. In addition, the permitted must, in good faith and with due diligence, reasonably progress toward completion of the project once the coastal use has been initiated.
11. The following special conditions must also be met in order for the use to meet the guidelines of the Coastal Resources Program:

I. General Conditions

A. The Secretary of DNR has determined that full individual permit processing by CMD is in the public interest in order to determine whether proposed activities qualify for authorization under this General Permit. This full individual permit processing will consist of review by the staff of CMD of each authorization request. Therefore, pursuant to the Rules and Procedures for Coastal Use Permits, Title 43, Subpart 723.C.3.a, of the Louisiana Code of Administrative Procedure, an application fee will be assessed for activities proposed for authorization under the authority of this General Permit and, if appropriate, processing fees and appropriate mitigation plan processing fees will also be assessed for activities approved under the authority of this General Permit.

B. A standard Joint Application Form shall be completed and submitted to CMD along with drawings depicting the location and character of work proposed for approval under the authority of this General Permit. The applicant shall submit a complete application packet (forms and plats) to CMD. The application shall be accompanied by a $100.00 application fee or the application fee in effect at the time of application submittal. This General Permit shall not apply if the proposed work is determined not to meet the criteria. The applicant shall be advised by letter within five (5) calendar days of receipt of the complete application that the application shall be processed as an individual CUP if the determination is made that the proposed activity is not consistent with this General Permit.

C. Individual written approvals from CMD must be obtained prior to the commencement of any individual activity proposed under the authority of this General Permit.

D. Should CMD deem that they may have an interest in the project, prior to issuance of authorization for individual activities under this General Permit, the following agencies shall have a five (5) calendar day period to review the proposed activity: the Louisiana Departments of Wildlife and Fisheries; Health and Hospitals; Environmental Quality; Natural Resources/Coastal Restoration Division; Culture Recreation and Tourism; Transportation and Development; State Land Office; and the approved Parish Local Program, if applicable. CMD may issue authorization for the activity after the five-day review period or after receiving notification by each of the agencies, either in writing or by telephone, that there are no objections to the proposed activity. However, the final decision for the issuance of authorization for individual activities under the authority of this General Permit, to issue approval with modifications or additional Operating Conditions, or to deny approval for the proposed work, shall be made by the Secretary of DNR.

E. Should it be deemed in the public interest, the Secretary shall deny authorization to perform work under the authority of this General Permit and require the applicant to obtain an individual CUP for the proposed activity.

F. Authorization for work under the authority of this General Permit shall expire if the work is not initiated and completed within two (2) years from the date of issuance of the original written approval. Initiation of the Coastal Use, for purposes of this General Permit, means the actual physical beginning of the use or activity for which the permit is required. Initiation does not include preparatory activities, such as movement of equipment onto the Coastal Use site, expenditure of funds, contracting out of work, or performing activities which by themselves do not require a permit. In addition, the permittee must, in good faith and with due diligence, reasonably progress toward completion of the project once the Coastal Use has been initiated. All activities authorized under the authority of this General Permit must be completed within 90 days of initiation of the work, with a one-time mobilization, unless a different time schedule is specifically approved by CMD.

G. The Term of this General Permit shall be five (5) years from the date of issuance, except as provided for in LAC 43 Subpart 723.E.3.b. The term of individual authorizations issued under the authority of this General Permit shall be two years from the date of issuance of the original individual authorization.

H. The permittee shall notify CMD of commencement of work which is authorized under the authority of this General Permit. The permittee shall notify CMD by either providing the information in writing or entering the information through the online system, within three (3) days of the date of initiation of the authorized work.

I. Issuance of approval under the authority of this General Permit does not relieve the applicant of obtaining other lawfully required permits (local, state, or federal) before commencing work.

J. The permittee shall allow representatives of CMD or authorized agents to make periodic, unannounced inspections to assure the activity is being performed in accordance with the conditions of the permit.

K. Work carried out under the authority of this General Permit shall conform to all appropriate state and federal safety regulations.

L. An authorization issued under the authority of this General Permit may not be transferred to another party without giving prior notice to, and receiving written approval from, the CMD Administrator. A transfer form can be downloaded at http://dnr.louisiana.gov/crm/coastmgt/cup/cup.asp, or can be provided upon request.

M. Work carried out under the authority of this General Permit shall be performed in full compliance with the rules and regulations of DNR which exist at the time of approval for that work.

II. Operating Conditions

A. All logs and stumps unearthed during dredging shall be buried beneath the bottom of the waterway or removed to a disposal site on land.

B. Spoil shall not be placed in and shall not block any tidal sloughs.

C. The activities covered by this General Permit shall not adversely affect any threatened or endangered species. Adverse impacts on fish, wildlife and the environment shall be minimized.

D. This general permit does not convey any property rights, mineral rights, or exclusive privileges, nor does it authorize injury to property.

E. The applicant shall notify the landowner(s), upon whose property the proposed work shall occur, of the fact that the application will be submitted. Copies of the initial notification letters sent to the landowner(s) shall be provided to CMD with the authorization request.

F. If archaeological, historical or other cultural resources are encountered during activities authorized under the authority of this General Permit, work shall cease and the applicant shall immediately notify the Division of Archaeology, Louisiana Department of Culture, Recreation, and Tourism (P. O. Box 44247, Baton Rouge, LA 70804) and CMD (P. O. Box 44487, Baton Rouge, LA 70804-4487, (225) 342-7591). Work may not resume until written approval is obtained from CMD.

G. The permittee shall insure that all sanitary sewage and/or related domestic wastes generated during the subject project activity and at the site, thereafter, as may become necessary shall receive the equivalent of secondary treatment (30 mg/l BOD5) with disinfection prior to discharge into any of the streams or adjacent waters of the area or, in the case of total containment, shall be disposed of in approved sewerage and sewage treatment facilities, as is required by the State Sanitary Code. Such opinion as may be served by those comments offered herein shall not be construed to suffice as any more formal approval(s) which may be required of possible sanitary details (i.e. provisions) scheduled to be associated with the subject activity. Such shall generally require that appropriate plans and specifications be submitted to the Department of Health and Hospitals for purpose of review and approval prior to any utilization of such provisions.

H. The permittee shall comply with all applicable laws regarding the need to contact the Louisiana One Call System ([800] 272-3020) to locate any buried cables and pipelines.

I. All activities, involving any discharge of pollutants, must be consistent with applicable water quality standards and any necessary permits issued through the Department of Environmental Quality/Office of Environmental Services (LDEQ – OES) must be obtained.

J. Dredging and/or filling activities authorized under the authority of this General Permit shall not exceed the volume specified in the work statement of the individual authorization.

K. Activities authorized under the authority of this General Permit shall be carried out on a one-time basis, during a one-time mobilization, except in situations where sequential phases (e.g., use of different types of dredging techniques) may be specified in the work statement of the individual authorization. Additional authorizations may be necessary for maintenance activities or work beyond the scope of the authorized activities.

L. When adverse impacts to vegetated wetlands may result from the proposed activity, and/or when otherwise determined necessary by CMD, the applicant and CMD shall negotiate, in consultation with the owner(s) of land on which the permitted activity is proposed to occur, and those other natural resource agencies deemed appropriate by CMD, a compensatory mitigation plan, and the applicant shall implement that plan. That plan shall fulfill the requirements of Louisiana Revised Statute 49:214.41 and those rules and regulations adopted hereunder. The compensatory mitigation plan shall be developed prior to the issuance of approval under the authority of this General Permit. The expiration of the term of this General Permit, or the revocation or expiration of approval to perform work under the authority of this General Permit, shall not absolve the permittee, its transferees, or assignees from the obligation and responsibility of implementing and maintaining the compensatory mitigation plan.

M. The applicant shall adhere to the following conditions if the project is within the boundaries of a public oyster seed ground:

1. Permittee shall be liable for, and shall compensate the state for, any damages to the oyster seed grounds caused by Permittee or Permittee's contractors during any work done under this permit. Prior to commencement of the permitted activity, Applicant will also provide LDWF with the name of an individual in authority who can be contacted regarding any work done under the permit.

2. Compensation for impacts to the public oyster seed grounds shall be in the form of the planting of cultch material (i.e. crushed concrete, limestone, oyster shell, etc) at the rate of 1 cubic yard per acre of impacted area for barren, non-supportive areas of the seed grounds, 50 cubic yards per acre of impacted area for supportive areas, and 187 cubic yards per acre of impacted area for reef areas plus the value of any living oyster resources destroyed. Applicant shall bear the expense of acquisition and deposition of cultch. The cultch shall be deposited by the Applicant, Applicant's contractor, or sub-contractor, under the direct supervision of LDWF, and shall be deposited at a time, place, and in a manner prescribed by the Department. In lieu of planting cultch material, the Applicant may make payment directly to the Public Oyster Seed Ground Development Account.

3. Permittee shall not discharge any drilling and/or workover effluent except for flocculated filtered water into the waters in the areas of the proposed activity. Discharge rate of water shall not exceed the rate of filtering.

4. Permittee shall not discharge any produced waters into the waters in the areas of proposed activity.

5. Permittee, Permittee's contractors and sub-contractors shall not discharge any human waste from any vessel that does not meet or exceed the requirements of the Department of Health and Hospitals.

6. If access route traverses a currently productive public oyster area, the Applicant shall secure approval of the access route from LDWF and shall ingress and egress to the project location only along the approved route.

7. Permittee shall establish and maintain, until the project is complete, along the access route appropriate access route markings for vessels traveling to and from the project location. These markings may be subject to applicable local, state, and federal navigation requirements. These markings shall be sufficient to be used during day and night operations as well as in any climatic and sea condition which may occur during permitted activities.

8. Permittee shall provide legal representation and indemnification to LDWF for any and all lawsuits and legal claims that may be filed or made against LDWF as a result of the activities by Applicant.

9. This permit specifically does not authorize prop washing, wheel washing, dredging, or jetting beyond what is shown in the application and drawings. Any changes or variances in the location, access route, volume of material moved and/or magnitude of the area of impact shall require formal application to, and prior written authorization from, DNR. The decision by DNR whether to authorize those changes will require consultation by DNR with LDWF in strict adherence to all applicable provisions of the February 3, 2005 Memorandum of Agreement between those two agencies.

10. Permittee shall have at the project location float booms for containing any spills.

11. At the discretion of the Secretary or Deputy Assistant Secretary of the Louisiana Department of Wildlife and Fisheries, any activities may be suspended until more favorable conditions prevail.

12. Permittee shall provide a letter of completion and as-built drawings of the completed project to the LDWF no later than 60 days following completion of the permitted activity.

13. At the discretion of LDWF, a post-project bottom contour and side-scan survey may be required. The results of these surveys will be made available to the Department, upon request.

14. Permittee shall remove or spread any dredged material which is greater than 0.5 feet above original bottom contours.

15. At the discretion of LDWF, the Permittee may be required to return all or part of water bottoms to pre-project conditions.

16. All vessels utilized under this permit shall be of such size and loaded in such a manner as to not impact the water bottoms over which they pass.

17. Permittee shall provide to the Louisiana Department of Wildlife and Fisheries a water bottom assessment (unless waived by LDWF) that meets LDWF water bottom assessment sampling protocol prior to commencement of permitted activity.

N. If the project authorized under the authority of this General Permit is located on the aboriginal homelands of the Chitimacha Tribe of Louisiana and/or at any time during the course of work any traditional cultural properties are discovered, the permittee shall immediately contact Kimberly S. Walden (Cultural Director) or Melanie Aymond (Research Coordinator) at (337) 923-9923 or (337) 923-4395. Office hours are Monday through Thursday from 7:30 AM - 5:00 PM. and on Friday between 7:30 AM and 11:30 PM. If traditional cultural properties are discovered on the weekend or after business hours, the notification shall be made the next business morning.

III. This General Permit does not apply in the following locations without prior written authorization from the appropriate agencies:

A. Work under the authority of this General Permit shall not be approved in the following areas, without prior written approval of the Louisiana Department of Wildlife and Fisheries (LDWF):

1. Within one-quarter mile of the boundary of or within a currently productive oyster seed ground, oyster seed reservation or public oyster harvesting area; or

2. Within the boundaries of an LDWF-owned or managed wildlife refuge or wildlife management area; or

3. Within 1,000 feet, or other distance deemed appropriate by LDWF, of a known bald eagle nest; or

4. Within 1,500 feet, or other distance deemed appropriate by LDWF, of a known bird rookery area.

5. Within the officially designated critical habitat of a threatened or endangered species.

B. Work under the authority of this General Permit shall not be approved in the following areas, unless the applicant first provides a letter of no objection from the Louisiana Department of Culture, Recreation, and Tourism.

1. Within a State Park, State Recreation Area or State Commemorative Area; or

2. Within any known historic or archaeological site or within the boundaries of an historical district.

C. Within 1,000 feet of an established navigation channel or fairway constructed, owned, operated, or maintained by federal, state or local governments, or with federal, state or local government funds, without written consent of each appropriate agency or governing body. An authorization request that is not accompanied by such written permission shall be processed as an application for an individual CUP. If, however, there is a physical barrier at the project site that isolates the Coastal Use from the navigation channel or fairway and effectively prevents any interchange between the two, this restriction does not apply.

D. Within 1,000 feet of a levee or other flood control facility constructed, owned, operated or maintained by federal, state or local governments, or with federal, state or local government funds, without the written consent of each appropriate agency or governing body.

E. Within 1,500 feet of a barrier island, barrier island features, cheniers or other coastal feature without the approval of the appropriate resource agencies that CMD determines to have programmatic interests.

IV. This General Permit does NOT apply in the following situations:

A. Within 1,000 feet of an area determined to be a unique ecological feature by the Secretary of DNR.

B. Within Special Significance Areas designated pursuant to R.S. 49:214.41(F) and those rules and regulations adopted there under, where applicable.

C. Within the boundaries of a national park or monument, national wildlife refuge or established buffer zone for any such national site.

V. Special Conditions

A. A new access channel located in open water that is a maximum of 70 feet wide x 8 feet deep x 1,100 feet long and a parallel slip that is a maximum 120 feet wide x 375 feet long x 8 feet deep, with a wing that is 60 feet wide x 60 feet long x 8 feet deep may be authorized under the authority of this General Permit. Unless it is determined by the interagency review team that alternative placement would have reduced environmental impacts, excavated material shall be placed in contiguous spoil banks along the canal and slip. The base of the spoil banks shall not exceed 75 feet in width.

B. Maintenance dredging of an existing channel or canal, up to 70 feet wide x 8 feet deep x 3,000 feet long and an existing slip up to 120 feet wide x 375 feet long x 8 feet deep with a wing that is 60 feet wide x 60 feet long x 8 feet deep may be authorized under the authority of this General Permit. Excavated material shall be placed upon existing spoil banks to the maximum extent practicable. The base of the spoil banks shall not exceed 75 feet in width.

C. A new or refurbished board road that is a maximum of 40 feet wide x 1,100 feet long may be authorized under the authority of this General Permit. The site shall be restored upon completion of the work. Board roads constructed under the authority of this General Permit shall meet all of the following specifications, unless the interagency review team determines that such conditions would cause significant adverse environmental impacts:

1. Height of the road shall not exceed five feet above mean sea level, or three feet above adjacent ground, whichever is less.

2. Maximum width of the base of the base of the board road (i.e., toe-of-slope to toe-of-slope) shall not exceed 40 feet.

3. Maximum width of the borrow pits shall not be greater than 30 feet at the surface, and maximum distance between the inside bank of the borrow pit and the toe of the road shall not be more than 20 feet.

4. Borrow pits for roads dredged under the authority of this General Permit shall be discontinuous and shall have a maximum length of three hundred feet. The pit dredged under the authority of this General Permit shall be staggered on opposite sides of roads whenever feasible and practical. If the pits dredged under that authority of this General Permit are not staggered on opposite sides of the road, gaps (i.e., undredged areas) at least 50 feet in length shall be left between the 300-foot long segments of borrow pits. In no case shall borrow pits dredged under the authority of this General Permit connect to existing borrow pits. Gaps of at least 50 feet in length shall be left between newly dredged borrow pits and existing borrow pits. Culverts or bridge openings shall not be installed through road fill to connect staggered segments of the pits. Culverts and/or ditches shall not be installed to connect sections of discontinuous borrow pits along one side of the road; and,

5. Culverts shall be installed through the road fill at least every 250 feet and at the crossing of any creeks, streams, sloughs, and other water bodies. Culverts shall provide a minimum of 452 square inches of cross-sectional flow area, but must be of sufficient size to convey normal flows. Culverts shall be installed at elevations to approximate pre-project flow conditions and shall not be installed to promote the drainage of wetlands or to impede wetland flooding. Bridges with clear openings at least 6 feet wide may be substituted for culverts. Culvert openings and bridges shall be periodically maintained and cleaned of debris to allow for free flow of water.

D. A ring levee that encloses a maximum of 90,000 square feet, constructed around an existing oil pit, may be authorized under the authority of this General Permit, if approved by the interagency review team. Fill material for the construction of the ring levee shall be excavated from within the ring levee, hauled in clean fill, or obtained from another location for which a valid Coastal Management Division authorization has been obtained if required. This General Permit authorizes the placement of up to 400 square feet of boards outside of the ring levee to construct a derrick jack stand when determined to be necessary by the interagency review team.

E. The interagency review team shall consist of representatives of the Coastal Management Division, the Coastal Restoration and Engineering Division and/or Office of Conservation (s) of the Louisiana Department of Natural Resources; the Louisiana Department of Wildlife and Fisheries; the State Land Office; the Water Quality Certifications Section of the Louisiana Department of Environmental Quality, the U. S. Army Corps of Engineers; the U. S. Fish and Wildlife Service; and NOAA Fisheries.

F. With the concurrence of the interagency review team, pit cleanups by government agencies or by their agents or contractors are not required to comply with LAC43:XIX.311 and LAC43:XIX.313 (Statewide Order 29-B) standards. However, in order for the ring levees to be degraded and the pit's contents to be brought into contact with the environment, the contents must comply with the Office of Conservation's LAC43:XIX.311 and LAC43:XIX.313 (Statewide Order 29-B) standards.

G. Unless, in the opinion of interagency review team, there is a potential for offsite contamination, this General Permit may authorize experimental technology to remediate the contaminants within the enclosed area of the pit.

H. This General Permit does not authorize the transportation of contaminated soil from one pit to another pit for storage and consolidation of material unless it is part of a remediation effort and the transported material will be treated to reduce the level of contamination in accordance with LAC43:XIX.311 and LAC43:XIX.313.

I. Restoration of abandoned drill sites and/or board roads shall, at a minimum, include:

1. All E&P wastes shall be removed from the site and disposed of at Department of Natural Resources' Office of Conservation (OC) permitted facility, or shall be treated and disposed of on site in accordance with LAC43:XIX.Chapter 5, LAC43:XIX.311 and LAC43:XIX.313 (Statewide Order 29-B).

2. Removal of all boards from the site and disposal of unusable boards at a approved and/or permitted OC facility;
3. Disposal of all other debris, trash, and garbage in an approved and/or permitted OC or LDEQ-OES facility, whichever is applicable;

4. Return of excavated material to borrow areas;

5. Disposal of hauled-in fill material in existing borrow areas, a permitted OC or LDEQ-OES facility or a non-wetland site approved by CMD; and

6. Re-grading of the site to pre-project elevations to the maximum extent practicable.

VI. Definitions

A. As used in this general permit, the following terms shall have the meaning ascribed to them:

1. Geologic Review Procedure means the process by which alternative methods, including alternative locations, for oil and gas exploration are evaluated on their environmental, technical, and economic merits on an individual basis; alternative methods, including alternative locations, of oil and gas production and transmission activities which are specifically associated with the proposed exploration activity shall also be evaluated in this process. These alternative methods, including alternative locations, are presented and evaluated at a meeting by a group of representatives of the involved parties. A geologic review group is composed, at a minimum, of representatives of the applicant, a petroleum geologist and a petroleum engineer representing the Coastal Management Division and/or the New Orleans District Corps of Engineers, and a representative of the Coastal Management Division Permit Section, and may include, but is not limited to, representatives of the Louisiana Department of Wildlife and Fisheries, the Louisiana Department of Environmental Quality, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. National Marine Fisheries Service, and the U.S. Environmental Protection Agency.

2. "Wetlands" means an open water area or an area that is inundated or saturated by surface or ground, water at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, which occur within the designated coastal zone of the state. Wetlands generally include swamps, marshes, bogs, and similar areas.

3. Fill materials used shall be free of contaminants, solid and/or hazardous wastes (as specified in the Louisiana Department of Environmental Quality regulations), including but not limited to wood debris, shingles, insulation and asbestos. All concrete/rip-rap shall be free of protruding (rebar) rods.

**********END OF CONDITIONS**********

By accepting this permit the applicant agrees to its terms and conditions.

I affix my signature and issue this permit this 17th day of February, 2009.

DEPARTMENT OF NATURAL RESOURCES

Jim Rives, Administrator
Coastal Management Division

This agreement becomes binding when signed by the Administrator of the Coastal Management Division, Department of Natural Resources.