

**DEPARTMENT OF NATURAL RESOURCES
OFFICE OF COASTAL MANAGEMENT**

P.O. BOX 44487
BATON ROUGE, LOUISIANA 70804-4487

(225) 342-7591
1-800-267-4019

COASTAL USE AUTHORIZATION/CONSISTENCY DETERMINATION

C.U.P No.: P20210120 (Revised)

NAME : CPRA
CPRA
P.O. BOX 44027
BATON ROUGE, LA 70804

LOCATION: Saint Bernard Parish, LA
Boring MC-1 @ Lat. 29° 48' 24.66" N, Long. 89° 45' 45.81" W (see plats for additional coordinates); Sections 128,130,132,134,& 136, T14-R14; Delacroix, LA 70085

DESCRIPTION: Collection of 195 soil borings & 155 cone penetrometer tests in order to obtain geotechnical information for the design & constructability of two marsh creation cells & four terrace fields for the BS-0041 project. A total of 20 cubic yards of native material will be excavated and hauled offsite, & 20 cubic yards of cement bentonite will be used to backfill boreholes.

REVISION 1: A total of 60 additional borings have been added to the geotechnical plan (see Sheets 9 & 10). An additional 6 cy of material will be excavated and hauled offsite and backfilled with 6 cy of cement bentonite.

This revised determination supersedes the original determination issued on February 23, 2021.

Pursuant to the Louisiana Administrative Code, Title 43, §723.E, you are hereby notified that the referenced activity is authorized by Coastal Use Permit(s) GP - 14. As stated in condition 10.I.D. of GP - 14, Office of Coastal Management may issue approval under the authority of this General Permit with additional Operating Conditions. This revised authorization is valid, therefore, only if the permittee adheres to the following condition(s):

- a. The requirement for compensatory mitigation for impacts to marsh habitat resulting from the referenced project will be determined after one full growing season (March 1 to November 1) following the completion of the permitted activities. This assessment shall include both primary impacts and secondary impacts which may result from the permitted activities.

Permittee shall provide on-ground pre- and post-construction photographic documentation of each bore site, including a photograph key that shows location and direction of each photograph, that clearly shows all vegetated wetlands occurring within the permitted project area. The post-construction photos should be taken at the same location and in the same direction as the pre-construction photos. The post-construction documentation shall be acquired (photos actually taken) and submitted within 60 days of the end of the first full growing season following completion of the project. Permittee shall notify OCM of the date of completion of permitted activities within 5 working days of completion.

If OCM determines that compensatory mitigation is required, permittee shall submit a compensatory mitigation plan for approval within 30 days of notification of the compensatory mitigation requirements by OCM. All necessary approvals shall be obtained for the compensatory mitigation plan and the plan shall be implemented as directed by OCM. Permittee should be aware that compensatory mitigation projects may be required to be maintained for as many as 20 years for marsh mitigation projects and 50

years for forested wetland mitigation projects. A processing fee will be assessed for the determination of compensatory mitigation requirements and evaluation of the proposed compensatory mitigation plan in accordance with LAC Title 43, Part I, Chapter 7, §724.D. This fee shall apply regardless of which compensatory mitigation option is selected and does not include the cost incurred to implement the required compensatory mitigation.

- b. All equipment utilized to perform activities authorized under this permit shall stay within the access routes and work areas designated on the permit plats utilizing the least damaging route and/or open water areas.
- c. Applicant shall not discharge any drilling and/or workover effluent except for flocculated filtered water.

Applicant shall not discharge any human waste which does not meet or exceed the requirements of the Department of Health and Hospitals.

Applicant shall not discharge any produced waters.

Applicant is subject to all applicable state laws related to damages which are demonstrated to have been caused by this proposed action.

Applicant shall use any dredged material beneficially to create/restore emergent wetlands or place the material in open water in such a manner not to decrease the water depth greater than six inches.

Applicant shall provide to the LDWF a water bottom assessment (unless waived by LDWF) that meets LDWF protocol prior to commencement of the activity. A waiver request must be submitted to LDWF in writing and must state the justification for the request. Applicant may, at the request of LDWF and prior written approval of OCM, be required to modify the project if the proposed location unnecessarily impacts oyster reefs.

- d. All fill material shall be clean and free of contaminants and shall not contain hazardous materials such as asbestos or asbestos residue, shingles, tires, oil/grease residue, exposed rebar, protruding objects, etc.
- e. 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 not be discharged into any of the streams or adjacent waters of the area without authorization from DH and/or DEQ 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 and DEQ regulations. 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 DH for purpose of review and approval prior to any utilization of such provisions.
- f. The area where the project is located is all part of the aboriginal homelands of the Chitimacha Tribe of Louisiana. As such, large villages, burial sites, and sacred sites were in place in that entire area. If at any time during the course of the work, any traditional cultural properties are discovered, 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 A.M. - 5:00 P.M. and on Friday between 7:30 A.M. - 11:30 A.M. If traditional cultural properties are discovered on the weekend or after business hours, the notification shall be made the next business morning.

This revised determination is valid for two (2) years from the date of the signature of the Secretary or his designee on the original determination which was February 23, 2021. If the proposed activity is not initiated within this two year period, this revised determination will expire and the applicant will be required to submit a new application. The applicant will notify the Office of Coastal Management of the date on which initiation of the proposed activity began by entering a commencement date through the online system, or by mailing said information to OCM.

This revised determination has been made based on the information provided in your application showing that either no dredging or limited dredging would be necessary to access to the work site. Dredging beyond that described in your application, including prop washing, wheel washing, or otherwise displacing water bottom material is not authorized by this determination. If site conditions are such that dredging beyond that authorized is necessary, a revised determination including agency or public notice if applicable, will be required.

This revised determination has been made on the basis of information provided by your application. If it is later established that you furnished erroneous data, you may be directed to alter or modify your plans, to remove structures you have installed, and/or to restore the work area to pre-project conditions at your own expense. If it is established that you knowingly furnished erroneous data, you could also be subject to legal action.

This determination does not eliminate the need to obtain a permit from the United States Army, Corps of Engineers or any other Federal, state or local approval that may be required by law. The drawings submitted with your referenced application are attached hereto and made a part of the record. If you have any questions regarding this authorization, please contact our office (225) 342-7591 or (800) 267-4019.

***** End of Determination *****

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

I affix my signature and issue this revised determination this 13th day of August, 2021.

DEPARTMENT OF NATURAL RESOURCES



Karl L. Morgan, Administrator
Office of Coastal Management

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

Attachments

Final Plats:

- 1) [P20210120](#) [Final Plats](#) [08/11/2021](#)

cc: Martin Mayer, COE w/attachments
Dave Butler, LDWF w/attachments
Jordan Cobbs, OCM w/attachments
Craig Leblanc, Samuel Welty, OCM/FI w/attachments
Saint Bernard Parish w/attachments



GP-14 Conditions

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 permittee 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. Please be advised that a separate Coastal Use Permit (CUP) may be required for maintenance activities.
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 permittee shall notify the Office of Coastal Management (OCM) of the date on which initiation of the permitted activity described under the "Coastal Use Description" began. The permittee shall notify the OCM by entering a commencement date through the online system, or by mailing said information to OCM.
10. The following special conditions must also be met in order for the use to meet the guidelines of the Louisiana Coastal Resources Program:

I. General Conditions

- A. The Secretary of DNR has determined that full individual permit processing by OCM is in the public interest in order to determine whether proposed activities qualify for authorization under the authority of this General Permit. This full individual permit processing will consist of review by the staff of OCM 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. If appropriate, permit processing fees and appropriate mitigation plan processing fees also will be assessed.
- B. A standard Joint Application Form (JPA) shall be completed and submitted to OCM along with drawings depicting the location and character of work proposed for approval under the authority of this General Permit. The JPA, sample drawings and other helpful information can be found on our website at <http://www.dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=93>. The application shall be accompanied by 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 provided herein. The applicant shall be advised 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 OCM must be obtained prior to the commencement of any individual activity proposed under the authority of this General Permit.
- D. Should OCM deem that they may have an interest in the project, prior to issuance of authorization for an individual activity under the authority of 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; Office of Coastal Protection and Restoration; Culture Recreation, and Tourism; Transportation and Development; State Land Office; and the approved Parish Local Program, if applicable. OCM may issue authorization for the proposed activity after the designated 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, or his designee.
- 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. Unless otherwise specified in the General Permit or specific work approval, 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 individual 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 OCM.

- G. The term to initiate and complete an individual authorization issued under the authority of this General Permit may be extended for up to an additional two (2) years beyond the initial two (2) year term. Extension requests shall be in the form of a written letter which shall refer to the original coastal use permit application number and specifically state that a permit extension is desired. Submission of extension requests via the online application system also is acceptable. A nonrefundable extension request fee in the amount of \$80 shall be included with such a request, and the request must be received by the Permits, Mitigation and Support Division no sooner than 180 days and no later than 60 days prior to the expiration of the individual authorization in question. Requests received later than 60 days prior to the expiration date of the permit shall be eligible for consideration for extension, however a permittee who fails to make a timely request for an extension shall not engage in any activity requiring a coastal use permit past the original permit expiration date until an extension of the lapsed permit or a new permit is granted.
- H. 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.
- I. The permittee shall notify OCM of commencement of activities which are authorized under the authority of this General Permit. The permittee shall notify OCM 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.
- J. Issuance of approval under the authority of this General Permit does not relieve the permittee of obtaining other lawfully required permits (local, state, or federal) before commencing work.
- K. The permittee shall allow representatives of OCM or authorized agents to make periodic, unannounced inspections to assure the activity is being performed in accordance with the conditions of the permit.
- L. Work carried out under the authority of this General Permit shall conform to all appropriate state and federal safety regulations.
- M. 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 OCM Administrator. A transfer form can be downloaded at <http://dnr.louisiana.gov/assets/docs/coastal/cup/transfer.pdf> or can be provided upon request.
- N. 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.
- O. Permittee shall provide legal representation and indemnification to State agencies for any and all lawsuits and/or claims whether they be legal or otherwise that may be filed or made against State agencies as a result of the activities by permittee.

II. Operating Conditions

- A. All logs, stumps and other debris encountered during dredging activities shall be removed from the site during or immediately after the activity and disposed of in accordance with all applicable laws and regulations.
- B. Dredged material shall not be placed in or block any tidal sloughs.
- C. This General Permit does not convey any property rights, mineral rights, or exclusive privileges, nor does it authorize injury to property.

- D. If archaeological, historical or other cultural resources are encountered during activities authorized under the authority of this General Permit, work shall cease and the permittee shall immediately notify the Division of Archaeology, Louisiana Department of Culture, Recreation, and Tourism (CRT) (P. O. Box 44247, Baton Rouge, LA 70804) and OCM (P. O. Box 44487, Baton Rouge, LA 70804-4487, (225) 342-7591). Work may not resume until written approval is obtained from CRT.
- E. 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 not be discharged into any of the streams or adjacent waters of the area without authorization from DHH and/or LDEQ 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 and LDEQ regulations. 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 (DHH) for purpose of review and approval prior to any utilization of such provisions.
- F. The permittee shall comply with all applicable laws regarding the need to contact the Louisiana One Call System (dial 811) or online at <http://www.laonecall.com/index.html> to locate any buried cables and pipelines.
- G. The permittee is subject to all laws related to damages which are demonstrated to have been caused by the permitted activities.
- H. 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 Water Resources must be obtained.
- I. Dredging and/or filling activities authorized under the authority of this General Permit shall not exceed the volume specified in the project description of the individual authorization.
- J. When adverse impacts to vegetated wetlands may result from the proposed activity, and/or when otherwise determined necessary by OCM, the applicant and OCM 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 OCM, 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 thereunder. Unless otherwise stated 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.
- K. If applicable, the requirement for compensatory mitigation for impacts to wetlands resulting from the referenced project may be determined after one full growing season (March 1 to November 1) following the completion of the permitted activities. This assessment shall include both primary impacts and secondary impacts which may result from the permitted activities.

If OCM determines that compensatory mitigation is required, permittee shall submit a compensatory mitigation plan for approval within 30 days of notification of the compensatory mitigation requirements by OCM. All necessary approvals shall be obtained for the compensatory mitigation plan and the plan shall be implemented as directed by OCM. Permittee should be aware that compensatory mitigation projects may be required to be maintained for as many as 20 years for marsh mitigation projects and 50 years for forested wetland mitigation projects. A processing fee will be assessed for the determination of compensatory

mitigation requirements and evaluation of the proposed compensatory mitigation plan in accordance with LAC Title 43, Part I, Chapter 7, §724.D. This fee shall apply regardless of which compensatory mitigation option is selected and does not include the cost incurred to implement the required compensatory mitigation.

- L. Individual activities authorized under the authority of this General Permit and occurring on LDWF identified Public Oyster Seed Grounds or Reservations shall be conditioned as agreed upon per the Memorandum of Understanding between the LDNR and LDWF, and all subsequent amendments to said document. This document can be found at <http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=96>.
- M. Individual 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, or phased construction) 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.
- 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 the Chitimacha Tribe of Louisiana, P.O. Box 661, Charenton, LA 70523 - phone (337) 923-7215.

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, unless the applicant first provides a letter of no objection from the Louisiana Department of Wildlife and Fisheries:
 - 1. Within the boundary of a currently productive oyster seed ground, oyster seed reservation or public oyster harvesting area; or
 - 2. Within the boundaries of a LDWF owned or managed Wildlife Management Area or Wildlife Refuge.
 - 3. Within 1,000 feet, or other distance deemed appropriate by LDWF, of a known bald eagle nest.
 - 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 1,500 feet of the Mississippi River or Atchafalaya River levees or within 300 feet of all other levees or other flood control structures which are owned, operated or maintained by the federal government, or with federal funds, without the written consent of each appropriate agency or governing body.
- E. Within 1,000 feet of levees or other flood control facilities constructed, owned, operated or maintained by state or local governments, or with state or local government funds, without the written consent of each appropriate agency or governing body.
- F. Within 1,500 feet of a barrier island, barrier island feature, chenier, beach, dune or other coastal feature without the approval of the appropriate resource agencies that OCM 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 thereunder, 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. This General Permit authorizes the following:

1. Construction of a temporary trench for the installation and maintenance of cables, conduit, and/or pipes for water pipelines, with maximum dimensions of five (5) feet deep and six (6) feet in top width;
2. Installation of utility poles within new or existing right-of-way corridors;
3. Clearing of new and existing rights-of-way of an adequate width to permit safe working conditions but not to exceed a total width of 100 feet. Clearing of new rights-of-way shall be limited to 1500 linear feet;
4. Installation of manholes requiring the excavation of an area 7 feet wide x 16 feet long x 12 feet deep;
5. Crossings of manmade and natural waterways by aerial, buried, submerged, and directionally drilled methods.
6. Installation of telecommunication cabinets installed to grade on 40 feet x 50 feet sites on a 14 feet x 20 feet concrete pad or raised on a 20 feet x 20 feet platform using pilings.
7. Drilling geotechnical boreholes, up to six (6) inches in diameter and 300 feet deep, returning excavated material to the borehole and filling with concrete as needed. Minimization and avoidance of impacts to vegetated wetlands and other resources due the drilling, placement of equipment, and access shall be required. Unavoidable impacts shall require compensatory mitigation.

- B. This General Permit does not authorize the construction or installation of permanent roads, parking lots,

towers, office buildings or equipment buildings larger than 14 feet x 20 feet.

- C. The permittee shall provide OCM with the following information for each individual maintenance operation proposed for authorization under the authority of this General Permit:
1. Plat showing access route(s) to be used;
 2. Description of the type of equipment to be utilized;
 3. Specific dredging locations, dimensions of area to be dredged, and anticipated date of proposed installation and/or maintenance;
 4. Proposed dredging method;
 5. Anticipated volume of dredged material; and
 6. Specific dredged material disposal techniques and locations relative to existing uplands, wetland and open water areas.
- D. Dredged material may be temporarily stored immediately adjacent to the site of removal but must be used as backfill. The dredged area and dredged material storage areas shall be restored to as near pre-project conditions as possible. Pre-project aerial photos of the project area must be taken in order to assess the need for mitigation. Aerial photographs shall be taken in accordance with OCM specifications that will be determined on a case by case basis.

