



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P. O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0019

Regulatory Division

OCT 12 2007

DEPARTMENT OF THE ARMY PERMIT  
PROGRAMMATIC GENERAL PERMIT SAJ-91  
SAJ-2005-8775 (LBD)

RIPRAP REVETMENTS, MAINTENANCE DREDGING, BOAT RAMPS, AERIAL TRANSMISSION LINES, SUBAQUEOUS UTILITY AND TRANSMISSION LINES, PRIVATE SINGLE-FAMILY PIERS AND APPURTENANCES, STORMWATER OUTFALLS, BULKHEADS AND BACKFILL, AND OTHER MINOR STRUCTURES LOCATED WITHIN THE CITY OF CAPE CORAL, LEE COUNTY, FLORIDA.

Upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, general authority is hereby given to the City of Cape Coral to administer this permit for the construction of riprap revetments, maintenance dredging, boat ramps, aerial transmission lines, subaqueous utility and transmission lines, private single-family piers and appurtenances, stormwater outfalls, bulkheads and backfill, and other minor structures located within canals which are waters of the United States and/or navigable waters of the United States within the City of Cape Coral, Lee County, Florida. **This permit does not include any work or structures along the Caloosahatchee River, Matlacha Pass Aquatic Preserve, or within the Cape Coral Spreader Canals (North and South).**

COORDINATION AGREEMENT: An agreement has been signed by the Corps and the City of Cape Coral. The agreement outlines the steps each agency will take during the processing of an application under the SAJ-91, and includes reporting requirements.

This programmatic general permit is subject to the following conditions:

A. CONDITIONS FOR RIPRAP REVETMENTS:

1. The work herein includes the installation and repair of unconsolidated riprap revetments.

2. The revetment shall not exceed 500 feet in length and not exceed one cubic yard per running foot, including any backfill below the plane of the mean or ordinary high water line.

3. If backfill is utilized, then a suitable filter material shall be installed to maintain the stability of the fill material.

4. This general permit does not authorize the filling of wetland areas. Wetlands are those areas that are periodically inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, mangroves and similar areas.

5. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### B. CONDITIONS FOR MAINTENANCE DREDGING:

1. This general permit only authorizes maintenance excavation of existing canals. No additional dredging/excavation is allowed under this permit other than is necessary to restore the canal to its original excavated depth; however, in no case shall the depth of canal be greater than -5 feet mean low water.

2. The material dredged/excavated under this permit shall not exceed 4,000 cubic yards per project per year.

3. Excavated spoil material shall be deposited at self-contained upland areas that will prevent spoil material and/or return water from reentering any water of the United States (including wetlands) or interfering with natural drainage.

4. This permit does not authorize the discharge of dredged or fill material into navigable waters of the United States.

5. This permit does not authorize the excavation of wetlands below the mean or ordinary high waterline of navigable waters or areas containing submerged aquatic vegetation. Wetlands are those areas that are periodically inundated and saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, mangroves and similar areas.

6. This permit does not authorize the removal of plugs or the connection of any canal to navigable waters of the United States or to any other waters.

7. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special

and General Conditions are applicable to all structures and/or work authorized under this general permit.

C. CONDITIONS FOR BOAT RAMPS:

1. The work herein authorized includes the installation and maintenance of private single-family boat ramps, including appurtenant structures (bulkheads, rub-rails, tie-up piers) requiring less than 100 cubic yards of fill material.

2. Where practical, bulkheads should extend no further than 1 to 2 feet waterward of the mean high water line, but in no case shall they exceed 5 feet waterward of the mean high water line. Tie-up piers shall not exceed: (a) the length of the boat ramp; (b) a width of 6 feet; and may have a single catwalk or terminal platform not to exceed 20 feet in length and 4 feet in width.

3. Excavated spoil material shall be deposited at self-contained upland areas that will prevent spoil material and/or return water from re-entering any water of the United States (including wetlands) or interfering with natural drainage.

4. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

D. CONDITIONS FOR AERIAL TRANSMISSION LINES:

1. The work herein authorized includes the installation of aerial transmission lines and associated structures.

2. The aerial transmission lines must meet the U.S. Army Corps of Engineers clearance criteria as described in 33 CFR, Part 322.5(i)(1), (2), (3), and (4).

3. The construction of aerial transmission lines does not involve the dredging or filling of navigable waters or waters of the United States.

4. The permittee shall defend and hold the U.S. Government harmless from any and all claims by reason of the placement and installation of the transmission lines authorized by this permit.

5. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

E. CONDITIONS FOR SUBAQUEOUS UTILITY AND TRANSMISSION LINES:

1. The work herein authorized includes the installation and maintenance of subaqueous utility and transmission lines laid on, under or embedded in the bottom of navigable waters of the United States within the City of Cape Coral. The installation of utility and transmission lines by directional bore is authorized.

2. Dredged or fill material placed as backfill or bedding for subaqueous utility and transmission lines must not change the preconstruction bottom contours. Excess material must be removed to an upland disposal area.

3. The permittee will install signs at the shoreline to notify navigational interests of the location of subaqueous utility and transmission lines.

4. The permittee shall defend and hold the U.S. Government harmless from any and all claims by reason of the placement and installation of the transmission lines authorized by this permit.

5. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### F. CONDITIONS FOR PRIVATE PIERS AND APPURTENANT STRUCTURES:

1. Structures authorized under this general permit are private single-family piers not to exceed 2 slips. This would include normal appurtenances such as boat hoists, boat shelters with open sides, stairways, walkways, mooring pilings, dolphins, and maintenance of these appurtenances. Boat slips are not authorized by this general permit.

2. No living, fueling, or storage facilities over navigable waters of the United States are authorized under this general permit

3. The structure shall be consistent with other structures in the area.

4. Where practicable, unless sealed or wrapped, the use of CCA-treated wood should be avoided.

5. A structure which by its size or location may adversely affect water quality, fish and wildlife habitat, wetlands or submerged aquatic vegetation shall not be authorized by this general permit. Impacts to submerged aquatic vegetation cannot be authorized by SAJ-91.

6. No activity may cause more than a minimal adverse effect on navigation. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

7. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### G. CONDITIONS FOR STORM WATER OUTFALLS:

1. Structures authorized under this general permit are storm water outfalls and appurtenances.

2. Authorization is contingent upon issuance of lawfully required National Pollutant Discharge Elimination System permits (Section 402 of the Clean Water Act) from the U.S. Environmental Protection Agency, Florida Department of Environmental Protection, State Water Management District, or their legally authorized delegate.

3. This general permit authorizes dredging at storm water outfalls. Maintenance dredging shall be limited to a depth of no more than 5 feet below mean or ordinary high water. No additional dredging is authorized under this general permit other than that which would be necessary to restore the discharge structure to its original permitted excavated depth.

4. Excavated spoil material shall be deposited at self-contained upland areas that will prevent spoil material and/or return water from reentering any water of the United States (including wetlands) or interfering with natural drainage.

5. In canals with open access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, grating shall be installed over the outfall to reduce the risk of entrapment and drowning of manatees. Grating shall be installed over pipes greater than 8 inches, but smaller than 8 feet in diameter. Bars or grates no more than 8 inches apart shall be placed on the accessible end(s) to restrict manatee access. The installation of grates applies to submerged or partially submerged pipes and culverts reasonably accessible to manatees.

6. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### H. CONDITIONS - BULKHEADS AND BACKFILL IN RESIDENTIAL CANALS:

1. The work herein authorized includes the construction, repair or maintenance of seawalls (bulkheads) and associated backfill in residential canals.

2. The seawall shall not exceed 300 feet in length and not extend any farther waterward than existing bulkheads in the area; or in areas where there are no existing

bulkheads, the seawall shall not be constructed further than 3 feet waterward of the mean high waterline.

3. The backfill must be from upland sources and consist of suitable material free from toxic pollutants in other than trace quantities. The amount of backfill shall not exceed one (1) cubic yard per running foot below the plane of the mean high waterline.

4. If riprap is installed, it shall be placed at the toe of the vertical seawall to dissipate wave energy and provide substrate for organisms. The amount of riprap shall not exceed one (1) cubic yard per running foot below the plane of the mean high waterline.

5. This permit does not authorize any filling, except for backfill behind the seawall and the installation of riprap at the base of the seawall.

6. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### I. CONDITIONS FOR MINOR STRUCTURES:

1. The work herein authorized will be for minor structures to include:

- a. Single mooring pilings.
- b. Small mooring dolphins (limited to one cluster of four or fewer pilings).
- c. Non-commercial information signage.
- d. Boat lifts, hoists, davits.
- e. Other minor structures that would have less environmental impact than a small dock.

2. Where practicable, unless sealed or wrapped, the use of CCA-treated wood should be avoided.

3. In addition to the above conditions, the permittee must abide by all of the Special Conditions listed below and the attached General Conditions. These Special and General Conditions are applicable to all structures and/or work authorized under this general permit.

#### J. SPECIAL CONDITIONS FOR ALL WORK:

1. No work shall be performed until the permittee submits satisfactory plans for the proposed activity and receives written authorization from the City of Cape Coral.

2. The work authorized herein is limited to existing canals within the City of Cape Coral and does not include the Caloosahatchee River, Matlacha Pass Aquatic Preserve, and the Cape Coral Spreader Canal.

3. No activity shall be authorized under this general permit that may adversely affect water quality, fish and wildlife habitat, wetlands, or emergent or submerged aquatic vegetation.

4. No work shall be performed until after the permittee provides notification to the owner(s) or operator(s) of any marked utilities in the work area.

5. No structure or work shall adversely affect or disturb properties listed in the *National Register of Historic Places* or those eligible for inclusion in the National Register. Prior to the start of work, the permittee or other party on the permittee's behalf, shall conduct a search in the *National Register Information System* (NRIS). Information can be found at; <http://www.cr.nps.gov/nr/research/nris.htm>. Information on properties eligible for inclusion in the National Register can be identified by contacting the Florida Master File Office by email at [fmsfile@dos.state.fl.us](mailto:fmsfile@dos.state.fl.us) or by telephone at 850-245-6440.

If unexpected cultural resources are encountered at any time within the project area that was not the subject of a previous cultural resource assessment survey, work should cease in the immediate vicinity of such discoveries. The permittee, or other party, should notify the SHPO immediately, as well as the appropriate Army Corps of Engineers office. After such notifications, project activities should not resume without verbal and/or written authorization from the SHPO.

If unmarked human remains are encountered, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*, unless on Federal lands. After such notifications, project activities on non-Federal lands shall not resume without verbal and/or written authorization from the Florida State Archaeologist for finds under his or her jurisdiction.

6. Conformance with descriptions and quantities contained herein does not necessarily guarantee authorization under this general permit and the District Engineer reserves the right to evaluate any proposed work in waters of the United States as a Standard Permit.

7. Any structure or work authorized under this general permit must not interfere with general navigation.

8. In canals with open, lift, or lock access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, prior to verification of authorization, the dichotomous key titled "The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida, July 2005", (see <http://www.saj.usace.army.mil/regulatory/what/species/endangered.htm>) will be used to determine potential manatee impacts. Those determined to be a "may affect" to the manatee will not be authorized until consultation on the project has been concluded with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act.

Additionally, depending on the location of the project, some projects determined to be "may affect, not likely to adversely affect" will not be authorized until consultation on the project has been concluded. *Note: The manatee key may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

9. In canals with open, lift, or lock access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee will utilize the "Standard Manatee Conditions for In-Water Work, July 2005" (see <http://www.saj.usace.army.mil/regulatory/what/species/endangered.htm>) and/or requirements, as appropriate for the proposed activity. *Note: The manatee conditions may be subject to revision at any time. It is our intention that the most recent version of these conditions will be utilized during the evaluation of the permit application.*

10. In canals with open, lift, or lock access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee will utilize the "Sea Turtle and Smalltooth Sawfish Construction Conditions" (see <http://www.saj.usace.army.mil/regulatory/what/species/endangered.htm>) and/or requirements, as appropriate for the proposed activity. *Note: These conditions may be subject to revision at any time. It is our intention that the most recent version of these conditions will be utilized during the evaluation of the permit application.*

11. Turbidity control measures will be used to control water quality and the work must be in accordance with State Water Quality Standards as outlined in Florida Statute 62.302. Turbidity control measures may include but are not limited to, turbidity control curtains, the exclusive use of suction dredging, the exclusive use of closed "clam shell" dredging, or any other technique necessary to reduce turbidity to no more than background turbidity. The Florida Department of Environmental Protection (DEP) may require the applicant to submit a daily turbidity report which may be verified by state or local government inspectors.

12. With respect to bald eagles, the permittee should refer to the U.S. Fish and Wildlife Service's "National Bald Eagle Management Guidelines," dated May 2007 (see <http://www.fws.gov/northflorida/BaldEagles/bald-eagles.htm>) for guidance and clearance. *Note: The preceding should be considered an interim condition, after which, new rules may be promulgated. It is the Corps' intention that the most recently approved version of these conditions or ensuing rules will be utilized during the evaluation of permit applications under this general permit.*

13. No activity shall be authorized under this general permit which is likely to adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat.

14. Applicable permits under part IV of chapter 373 of the Florida Statutes, and applicable state lands authorizations under chapter 253 of the Florida Statutes must be

obtained from the State of Florida, Department of Environmental Protection (DEP), or South Florida Water Management District (SFWMD), or their authorized representatives, as appropriate.

15. For projects authorized under the SAJ-91 in navigable waters of the United States, the permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures 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 Corps of Engineers, 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.

16. This programmatic general permit will be valid for a period of five years from the date specified above unless suspended or revoked by the District Engineer prior to that date. If SAJ-91 expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on SAJ-91 will remain in effect provided the activity is completed within 12 months of the date SAJ-91 expired or was revoked.

17. The general conditions attached hereto are made a part of this permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Paul L. Grosskruger  
Colonel, U.S. Army  
District Engineer