



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS, ANTILLES OFFICE
400 FERNANDEZ JUNCOS AVENUE
SAN JUAN, PUERTO RICO 00901-3299

REPLY TO
ATTENTION OF

Antilles Regulatory Section
General Permit SAJ-84

DEPARTMENT OF THE ARMY PERMIT **MAR 18 2004**

GENERAL PERMIT SAJ-84

**THE DISCHARGE OF DREDGED OR FILL MATERIAL IN WATERS
OF THE UNITED STATES, INCLUDING WETLANDS, ASSOCIATED WITH THE
CONSTRUCTION, IMPROVEMENT, MAINTENANCE, REHABILITATION AND/OR
REPAIR OF EXISTING ROADWAYS OR BRIDGES, CONDUCTED BY THE PUERTO
RICO HIGHWAY AND TRANSPORTATION AUTHORITY (PRHTA) OR OTHER
STATE, FEDERAL OR LOCAL GOVERNMENTAL ENTITY, IN THE
COMMONWEALTH OF PUERTO RICO**

Upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act, general authority is hereby given for the discharge of dredged or fill material in waters of the U.S., including wetlands, associated with the construction, improvement, maintenance, rehabilitation, and/or repair of existing roadways or bridges conducted by the Puerto Rico Highway and Transportation Authority (PRHTA) or other State, Federal or Local Government Entity, in the Commonwealth of Puerto Rico, subject to the following terms and conditions:

Project Description: Work authorized under this General Permit is limited to the following activities:

- a. Discharge of dredged and/or fill material up to one acre of permanent impact to waters of the United States, including wetlands, for a single and complete project. This GP cannot be utilized for multiple crossing of the same waterway or waterbody. This GP authorizes the discharge of dredged and/or fill material for the following activities: foundation seals; abutments; approach fills; pipes and box culverts; widening of bridge approach ways; widening existing roadways and major bridge replacement projects involving the addition of more than one travel lane; placement of commonly utilized protection measures such as gabions, rip-rap, fabra-form concrete bags or sand-cement bags to protect stream beds and banks; energy dissipaters and scour protection devices to protect bridge piles, and box culverts and outfalls related to road projects; permanent approach fills; and fills associated with culvert installation.

b. Discharge of dredged and/or fill material up to one acre of impact to waters of the United States, including wetlands, for temporary features such as cofferdams, detours, construction pads, etc.

Special Conditions:

1. Written confirmation that the proposed work complies with this general permit must be received from the Jacksonville District Engineer, or his designated representative, prior to the commencement of any work. To enable this determination to be made, the prospective permittee must file a Puerto Rico Joint Permit Application containing the following information:

- (a) Name, address and telephone numbers of the prospective permittee.
- (b) Location of the proposed project.
- (c) A description of the proposed project, project purpose, direct and indirect adverse environmental effects the project would cause. A detailed description of permanent and temporary fills for each component that requires discharge of dredged or fill material into waters of the U.S.
- (d) A discussion of the reasonable measures taken to avoid and minimize adverse effects to aquatic resources. (See Special Condition 8)
- (e) A map indicating the location of the work.
- (f) Project Drawings (including plan and cross section views) of the proposed work (on 8-1/2-inch by 11-inch paper) showing all pertinent structures, elevations, dimensions and quantities of materials and locations of all structures and/or fill in wetlands or waterward of the ordinary high water mark.
- (g) A delineation of the affected wetlands, to include types or vegetation present and size.
- (h) A restoration plan to comply with special condition (5) below.
- (i) A mitigation plan, including drawings, according to special condition (9) below.
- (j) Approximate commencement and completion dates.
- (k) Plans, including timetables and techniques, for construction, stabilization and removal of all temporary fills.
- (l) Information indicating that no historic properties or cultural resources would be affected. A concurrence letter from SHPO must be provided. In cases where Federal funds are involved, documentation must be provided showing that the requirements of the National Historic Preservation Act has been satisfied by the Federal agency issuing the funds.
- (m) Information indicating that the proposed project is not likely to jeopardize the continued existence of a threatened or endangered species, or a species proposed for designation, as identified in the Endangered Species Act, or that it will not destroy or

adversely modify the critical habitat of such species. A concurrence letter from the U.S. Fish and Wildlife Service must be provided. In cases where Federal funds are involved, documentation must be provided showing that the requirements of the Endangered Species Act has been satisfied by the Federal agency issuing the funds.

Permit applications submitted without this information will be deemed incomplete and will not be acted upon until the applicant has submitted all the required information.

2. This General Permit cannot be utilized to authorize any work in navigable waters of the U.S.
3. This General Permit cannot be utilized to authorize projects with impacts to forested wetlands. This GP cannot be utilized for multiple crossing of the same waterway or waterbody.
4. No work will proceed until after the permittee has received written notice to proceed from the Jacksonville District Engineer, or his designated representative. This notice may include additional conditions and/or restrictions.
5. Upon completion of any work authorized by this general permit, all temporary fills shall be completely removed and the area reestablished to its original condition by restoring natural hydrology and native vegetation. Stream contours and riparian vegetation will be reestablished upon the removal of temporary culverts. In such instances, a restoration plan shall be submitted to the Antilles Regulatory Section for approval. Information in the restoration plan will be in accordance with special condition (9) below.
6. All fills, temporary and permanent, must be stabilized to prevent erosion of fill material into adjacent waters or wetlands.
7. In cases where a new permanent fill is to be established and an older fill (approaches, causeways, etc.) is no longer to be maintained as a roadway, the older fill shall be removed and the area reestablished as a wetland. In such instances, a restoration plan will be submitted to the Jacksonville District Engineer for approval. Information in the restoration plan will be in accordance with special condition (9) below.

8. Discharges of dredged or fill material into waters of the United States, including wetlands, up to one acre of permanent impacts and one acre of temporary impacts may be permitted only after all efforts have been made to avoid and minimize impacts to wetlands and waters of the U.S. The permittee shall implement the following recommendations whenever possible:

a) Culverts should be sized to accept bankfull flows (approximately 1.2 to 1.5 year return flows) without substantially changing (increasing or decreasing) the stage level in the culvert over the existing stream stage, but should not be so large as to create a sedimentation problem and the need for constant cleaning.

(b) Round, box, or elliptical culverts should be embedded in the streambed approximately 10% of their height to avoid perched conditions downstream.

(c) Bottomless culverts, where they can be securely installed, are superior to closed cross-section culverts in ensuring the maintenance of existing streambed conditions.

(d) Culverts should be designed to follow the natural stream direction, as much as possible, to avoid downstream erosion problems.

Prospective permittees must explain the application why the above recommendations cannot be followed.

9. Compensatory mitigation is required for all permanent impacts. To expedite the process, the permittee shall provide a mitigation plan with the application for authorization. Creation and restoration proposals must be submitted as per Corps established mitigation guidelines. Mitigations shall be completed within one year from project impact. The restoration of temporary impacts must be completed within 6 months of completion permanent impacts. Mitigation shall be in-kind and on site to the extent practicable, and that the mitigation area will be sited such that future road improvements or bridge reconstruction will not impact the mitigation area.

10. No activity may disrupt the movement of those species of aquatic life indigenous to the water body, including those species, which normally migrate through the area. Where fish migration may be affected by the construction or existence of the facility, the permittee shall design the facility, and schedule and conduct his operations so as to allow free passage of migratory fish and prevent interference with fish spawning.

Discharges of dredged and fill material in spawning areas during spawning seasons shall be avoided to the maximum extent practicable.

11. All activities authorized by this general permit shall, to the extent practicable, be conducted in "dry", with barriers installed between work areas and aquatic habitat to protect that habitat from cement or other pollutants. Water in the work area will be pumped to holding and settling ponds as practicable, and water will not be allowed to re-enter the water column until decanted. This permit is intended to allow only minor, temporary changes in water flow caused by temporary cofferdams or diversions needed to facilitate the construction of a roadway crossing. Extensive or major channel relocation or changes are not allowed under this permit.

12. Authorization under this permit is contingent upon the issuance of a Water Quality Certificate, or a waiver, from the Puerto Rico Environmental Quality Board. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. The permittee shall comply with the conditions specified in the certification as special conditions to this permit. Prior to the commencement of any work, the permittee shall submit to the Antilles Regulatory Section a copy of the WQC.

13. Authorization under this permit is contingent upon the issuance of authorization, or waiver, of Coastal Zone Management Consistency Certificate in Puerto Rico from the P.R. Planning Board.

14. The permittee shall exercise all necessary standard construction procedures to protect waters of the United States from pollution by contaminants and to minimize turbidity and siltation of these waters. All exposed soils and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Special attention shall be given to temporary crossings to avoid sediment loading and restriction of high flows.

15. Petroleum products from the permittee's operations shall not be discharged in waters of the United States or in areas where the products may enter waters of the U.S.

16. No activity authorized under this permit shall jeopardize the continued existence of a threatened or endangered species, or a species proposed for such designation, as identified under the Endangered Species Act (ESA), or which is likely to destroy or adversely modify the critical habitat of such species. Authorization of an activity under this permit does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with an "incidental take" provision, etc.) from the USFWS, both lethal and non-lethal "takes" of protected species are in violation of the ESA.

17. Any discharge of dredged or fill material shall consist of clean material. It shall not consist of unsuitable material (e.g., trash, debris, waste metal products, bituminous concrete (asphalt), car bodies, etc.) and must be free from toxic pollutants in toxic amounts.

18. Any discharge of dredged or fill material shall not occur in close proximity of a public water supply intake and should not adversely affect a stream gauging station.

19. The use of this General Permit in the following areas is prohibited: Culebra Island; the coastal zone of La Parguera from Punta Jorobado for a distance of approximately twenty kilometers west to Cabo Rojo; Cartagena Lagoon; Tortuguero Lagoons; Mona Island; Forest Reserve Area at Piñones and Torrecilla; Las Cabezas; El Yunque; Jobos Bay; Mar Negro; Río Mameyes; Las Cucharillas Marsh; Caño Tiburones; Río Herrera/Miñi-Miñi/Mediania area; entire Municipality of Cabo Rojo; Caño Boquillas west of PR-2; Cayures Marsh in Aguada and its contiguous wetlands; the basin wetlands of Bajuras at Isabela, Camuy, and Carrizales in Arecibo; Prieta wetlands at Vega Alta; San Pedro wetlands in Dorado and Toa Alta; Cienaga Baja in Río Grande; wetlands associated with Herrera and Espíritu Santo Rivers; coastal wetlands of Santa Isabel; Areas along Martín Peña Channel and associated wetlands; Piñones State Forest wetlands; Torecilla Alta Pterocarpus Forest - Loíza; El Faro (Cabezas de San Juan) - Fajardo; wetlands in the Guánica State Forest; Humacao Swamp and Pterocarpus Forest; Caja de Muertos - Ponce, Jobos Bay - Salinas, Mar Negro - Salinas, Boquerón State Forest - Cabo Rojo; Dorado Pterocarpus Forest; Vieques Bioluminescent Bay; Laguna Tortugero; Caño Tiburones; Espinar Swamp (Aguada-Aguadilla); Laguna Joyuda mangroves - Cabo Rojo; Pandura and Guardarraya Special Planning Area; and Ceiba State Forest and all Commonwealth designated Natural Reserve areas.

20. Within 60 days of completing the work authorized, a "Self-Certification Statement of Compliance" must be completed and submitted to the U.S. Army Corps of Engineers.

21. This general permit will be valid until suspended or revoked by issuance of a public notice by the District Engineer. Reviews will be conducted to determine if continuance of the permit is not contrary to the public interest.

22. Work cannot be authorized under this General Permit that will adversely affect or disturb properties that are listed, or are eligible for listing, in the National Register of Historic Places, unless compliance with National Historic Preservation Act is completed in coordination with the Puerto Rico State Historic Preservation Office and/or the Advisory Council on Historic Preservation.

23. The District Engineer reserves the right to require that any request for authorization under this permit be processed as an individual permit.

FOR THE SECRETARY OF THE ARMY


Robert M. Carpenter
Colonel, U.S. Army
District Engineer

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on _____.
2. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
3. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
4. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

5. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)
