



STATE OF MISSISSIPPI
TATE REEVES
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

October 4, 2024

Ms. Kristi Hall
U.S. Army Corps of Engineers, Vicksburg District
Regulatory Division
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Ms. Hall:

Re: U.S. Army Corps of Engineers
Vicksburg District
General Permit 46
Warren County
COE No. MVK2018808
WQC No. WQC2024024

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Mississippi Department of Environmental Quality (Department) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, Vicksburg District, an applicant for a Federal License or permit to conduct the following activity:

U.S. Army Corps of Engineers, Vicksburg District, General Permit 46: Reissuance of a Department of the Army General Permit General Permit 46 for regulated activities including discharges of dredged and/or fill material in waters of the United States, associated with the construction and stabilization of roadway embankments and bridge abutments. Authorized activities would include, but not limited to, the repair and stabilization of existing roadway embankments and bridge abutments; the installation of additional traffic lanes to existing roadways; the upgrading of bridges and other stream-crossing structures; and the construction along new alignments.

General Permits may be issued for a category or categories of activities when: (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency, provided it has been determined that the environmental consequences of the action are individually and

cumulatively minimal. The final decision regarding a determination that the proposed activities comply with the requirements for issuance of General Permits was made using information that is available for inspection at the offices of the Vicksburg District's Regulatory Division at 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

The General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Construction, dredging, or fill operations which include regulated work and/or discharges of dredged or fill material into Section 10/404 or Section 404 regulated waters of the United States (collectively hereafter referred to as WOTUS) which are not specifically authorized by this General Permit are prohibited unless specifically approved by the District Engineer via separate authorization. Conformance with conditions contained in the General Permit would not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, an application for an individual permit will be required.

The following must be provided by the applicant in writing in request for authorization under the General Permit:

1. State the number of the General Permit under which the work would be conducted. (General Permit 46) (GP 46)
2. Statement that the work would be conducted in compliance with the terms and conditions of GP 46 and would not adversely impact adjoining properties.
3. A location description including: latitude and longitude; Section, Township, Range; County; a plan-view (including a digital aerial overlay), and location map showing the proposed worksite.
4. Estimated starting and completion dates of the project.
5. Name, mailing address, telephone number, and email address of the party (person or agency) applying for authorization.
6. A description of the proposed activity and its purpose, including;
 - a. Drawings (plan and profile) of the proposed structure with elevations,
 - b. Indication of the ordinary high water mark (when available),
 - c. Dimensions (in feet), total area impacted (in acres for wetlands; in both acres and linear feet for streams), and,
 - d. Amounts of excavated and fill material (in cubic yards).

For the selected site, a full set of construction plans (including quantities and types of any fill and quantities of any excavation), maps, and engineering

drawings for the proposed activity at that site. These shall include a map of sufficient scale that illustrates an “overlay” of the proposed construction/development activity (e.g., construction roads, ditches, parking areas, lay-down pads, temporary work areas, remaining natural areas, etc.) on jurisdictional waters of the U.S.

7. A delineation of all waters of the United States (WOTUS) within the project area, including special aquatic sites (e.g., wetlands) and other waters of the U.S. such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations would be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the special aquatic sites, including wetlands, and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the application evaluation period would not start until the delineation has been submitted by the applicant or completed by the Corps, as applicable.
8. An informational narrative and/or list detailing:
 - a. Individual aquatic resource impacts (in acres for wetlands; in acres and linear feet for streams).
 - b. Total quantity of impacts for each resource type (e.g. emergent wetland, forested wetland, intermittent stream, etc.),
 - c. All impact activities (discharge of dredged and/or fill material, conversion, etc.), impact duration (temporary or permanent),
 - d. The latitude/longitude (approximate center point) for each impact, and,
 - e. Current site photos representative of the WOTUS to be impacted.

[NOTE: An aquatic resources Identification and Impacts Spreadsheet is available for use on the Vicksburg District’s Regulatory Web Page]: <https://www.mvk.usace.army.mil/Missions/Regulatory/Permits/>

9. A narrative describing how impacts to WOTUS were minimized to the maximum extent practicable. For projects that include adverse impacts to WOTUS, the complete application would include information on mitigation in all forms (i.e. avoidance, minimization, and compensation).

For projects with unavoidable adverse functional impacts greater than 0.10 acre to wetlands or greater than 0.03 acre of streams, the complete application would include a statement describing: how, if required, the compensatory mitigation requirement would be satisfied (either through purchase of mitigation credits from an approved mitigation bank or “in lieu fee” provider, or through permittee responsible mitigation); or explaining why the project-specific adverse effects are no more than minimal and why compensatory

mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. If the applicant proposes permittee responsible mitigation, the application would not be considered complete until the Corps receives an acceptable permittee responsible mitigation plan.

[NOTE: Information on the Vicksburg District's current mitigation requirements is available on the MVK Regulatory Web Page]: <https://mvk.usave.army.mil/Missions/Regulatory/Mitigation/>

10. The type and date of approval of the NEPA documentation by the FHWA and a copy of their findings as required by Executive Order 11990.
11. A description of the Best Management Practices that would be used to minimize movement of disturbed soil(s) from the construction into adjacent WOTUS.
12. Comments from the Mississippi Department of Wildlife, Fisheries, and Parks, Mississippi Department of Archives and History (including the results of any National Historic Preservation Act, Section 106, consultation actions), United States Fish and Wildlife Service (including the results of any Endangered Species Act, Section 7, consultation actions), and the Mississippi Department of Environmental Quality on this project.
13. Concurrence in writing from the Mississippi Department of Marine Resources (related to the Coastal Zone Management Act) and the National Marine Fisheries Service (including the results of any Magnuson-Steven Fisheries Conservation and Management Act, essential fish habitat consultation actions), if the project is located in Hancock, Harrison, or Jackson County, Mississippi.
14. For work proposed: on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System; on a property/area owned or managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forest, etc.), the MDOT must submit with their request for authorization under this General Permit, the agency point of contact (including phone number, mailing address, and email address) and proof of initiation of the applicant's request for approval from the managing agency.
15. For activities affecting structures or works built by the United States: If a GP 46 activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it would alter or temporarily or permanently occupy or use a USACE Federally authorized Civil Works project, the application must include a

statement (and any associate documents) confirming that MDOT has submitted a written request for Section 408 permission to the Vicksburg District office having jurisdiction over that USACE project.

Upon receipt of this information, the District Engineer will evaluate the proposal and advise the inquiring party, in writing, that the work could be authorized under General Permit 46; or would require an individual permit (if it exceeds the authoritative capacity of the General Permit) and/or additional separate authorizations.

Special Conditions:

1. No more than 7 acres of wetlands and other waters would be directly impacted by the placement of fill at each single and complete crossing of a water of the United States where the proposed work involves either upgrading an existing highway within an established corridor or where the work is to be constructed along a new alignment. Any wetlands cut off from their natural hydrologic regime as a result of project work would be considered as directly impacted.
2. For stream or river crossings, discharges of permanent fill material and temporary fill material would be the minimum necessary to complete the crossing. The term fill refers to earthen material, riprap, concrete, and any other materials associated with the work.
3. The stabilization or construction work would not interfere with navigation (including recreational boating) or adversely impact the flow-carrying capacity of the affected waterbody.
4. Best management practices shall be used to prevent off-site movement of disturbed soils. The fill material would be compacted upon completion of construction. The site would be revegetated by sod, seed, or another acceptable method, as necessary, to restore cover and prevent erosion. In areas subject to currents, riprap could be used for slope protection.
5. Material to be used for fill must be nonpolluting and may be obtained either offsite or from site preparation. Additional material would not be obtained from WOTUS or any area which would affect an adjacent WOTUS. Offsite material shall not be obtained from wetlands outside the 7-acre limit or from other areas which may adversely affect adjacent wetlands. Any excess material shall be placed in an upland area and properly contained or stabilized to prevent entry into adjacent waterbodies or wetlands.
6. To minimize potential adverse impacts to wetlands within the right-of-way or associated with the project the Mississippi Department of Transportation shall incorporate into each project's design all practicable measures to:

- a. Minimize impact on hydrology in wetland areas.
 - b. Minimize potential for toxic spills and leaching into wetland areas.
 - c. Minimize discharge of materials, such as silt, into wetlands.
 - d. Maintain adequate flow through wetlands by providing culverts, ditches, and other hydrologic structures.
 - e. Provide berms, traps, or ditches to direct potential toxic spills away from wetlands.
 - f. Provide treatment facilities which may be required to treat highway runoff which would otherwise adversely affect wetlands.
 - g. Provide contractual provisions for stopwork orders, project staging, and other specifications pertaining to minimizing impacts on wetlands and to onsite monitoring.
7. Disturbed areas on the site shall be stabilized to minimize erosion. Stabilization of erodible areas will be accomplished by seeding or sodding as soon as practicable to restore vegetative cover. If initial re-vegetation is unsuccessful, the area shall be reseeded or re-sodded until re-vegetation is successful. In areas subject to currents, riprap may be required for slope protection.
8. No activity that has the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, or a site that has previously been unevaluated, shall be authorized by this General Permit until the requirements of Section 106 of the National Historic Preservation Act have been satisfied. Additional fill material shall not be taken from a known historical or archaeological site within or outside of regulated areas. If the permittee, during prosecution of work authorized herein, inadvertently discovers or accidentally destroys a cultural resource such as a cemetery, shipwreck, mound, historic structure, or archaeological site, within the area subject to Department of the Army jurisdiction, they shall cease work in the immediate area and notify the District Engineer within 24 hours. The District Engineer, in consultation with the appropriate State Historic Preservation Officer and the Federally recognized Tribe, shall comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (historic properties discovered during construction).
9. Authorized structures shall not increase the frequency, duration, or elevation of floodwaters on adjoining property. This General Permit shall not authorize the creation of new greentree reservoirs.
10. If damage to a revetment were to occur as a result of work in accordance with this General Permit, the permittee shall be required to make necessary repairs at their own expense. These repairs shall meet specifications designated by the District Engineer.

11. Activities shall not be authorized for work proposed on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System, without the appropriate Federal or State authorization.
12. For work within the Mississippi Coastal Zone Management Area, including all areas below Interstate I-10, a set of complete plans shall be sent to the agencies listed below for review and/or approval as appropriate. Comments and concurrence resulting from this coordination would be submitted with the request for authorization under this General Permit.
 - a. Mississippi Department of Marine Resources
Office of Coastal Resources Management
1141 Bayview Avenue
Biloxi, Mississippi 39530
 - b. National Marine Fisheries Service
Southeast Regional Office
Protected Resources
Attention: Ms. Karla Reece
263 13th Avenue South
St. Petersburg, Florida 33701
Email: Karla.reece@noaa.gov
 - c. National Marine Fisheries Service
Habitat Conservation Division
Attention: January Murray
5757 Corporate Boulevard, Suite 375
Baton Rouge, Louisiana 70803
13. Dredged, excavated, or fill material used for construction shall be nonpolluting material in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.
14. All construction activities shall be performed in a manner that would minimize increased suspended sediment/turbidity of the water in the work area and downstream, and otherwise avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons. This may require avoiding construction activities during the peak spawning months of April, May, and June.
15. All excavated material not used as backfill shall be placed in a non-jurisdictional area (i.e., upland) unless specifically approved via separate authorization. If dredged material would be placed in an upland contained

- disposal area and return water discharged back into waters of the United States, a separate Department of the Army authorization could be required (See Nationwide Permit No. 16).
16. The discharge shall not be located so as to adversely affect a public water supply intake or a national fish hatchery intake.
 17. The discharge shall not contain unacceptable levels of pathogenic organisms (as prescribed in standards set by the Mississippi Department of Environmental Quality) in areas used for activities involving physical contact with the water.
 18. The discharge shall not occur in areas of concentrated shellfish production.
 19. No activity shall be authorized under this General Permit which would be likely to directly or indirectly jeopardize the continued existence of a Federally-listed threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act (ESA), or which would directly or indirectly destroy or adversely modify the critical habitat of such species. No activity shall be authorized under this General Permit which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
 20. Activities in WOTUS that would impact known wading bird rookeries shall be avoided to the maximum extent practicable. The permittee shall be responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee shall be advised to contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.
 21. The construction activity shall not result in the permanent diversion or relocation of a stream or a river channel except where needed to align a waterway crossing to avoid potential damage to the roadway. In no case, shall any realignment extend beyond 150 feet upstream and 150 feet downstream from the centerline of a crossing structure. The construction activity shall result in neither stream flow impediment nor drain adjacent wetlands.
 22. Current standards and practices shall be used to determine what type drainage structure is required at a particular stream crossing (box culvert, bridge, etc.).
 23. No activity shall substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those

- species that normally migrate through the area, unless the activity's primary purpose is to impound water.
24. No sewage, oil, refuse, or other pollutants shall be discharged into the waterbody.
 25. Projects located on property encumbered by a Natural Resources Conservation Service (NRCS) Wetlands Reserve Program (WRP) easement shall not be authorized without written release/approval from the NRCS. Under such situations, the application shall not be considered complete until the Corps is provided written documentation of release/approval from the agreement by the NRCS.
 26. Activities shall not be authorized on a property/area managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.) without documented approval (e.g. special use permit, waiver, etc.) by the managing agency.
 27. Authorizations for this General Permit shall not be granted to an applicant who is in noncompliance with a Department of the Army permit until such noncompliance has been resolved.
 28. Conditions on the water quality certifications issued from the State in which the work is proposed that satisfies the requirements of 40 CFR Part 121.7(d) shall be incorporated by reference. Enforcement actions resulting from noncompliance with these conditions could be initiated by the State or the Environmental Protection Agency.
 29. The permittee shall return a Certification of Compliance after completing construction of the authorized activity.

General Conditions:

1. The activity authorized by the permit shall be maintained in good condition and in conformance with the terms and conditions of the permit. The permittee shall not be relieved of this requirement if the permitted activity is abandoned. However, a good faith transfer to a third party in compliance with General Condition "2", below, would be acceptable. Should the permittee desire to abandon the authorized activity without a good faith transfer, or should the permittee wish to cease to maintain the authorized activity, the permittee shall obtain a modification of the authorization from this office, which could require restoration of the area.

2. If the property associated with the authorization under this General Permit is sold, the permittee shall notify this office to ensure that the authorization is transferred to the new owner.
3. Representatives from this office shall be allowed 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.
4. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
5. This permit does not grant any property rights or exclusive privileges.
6. This permit does not authorize any injury to the property or rights of others.
7. An activity that requires Section 408 permission because it would alter or temporarily or permanently occupy or use a USACE federally authorized Civil Works project (Activities Affecting Structures or Works Built by the United States, 33 U.S.C. 408) shall not be authorized by GP 46 until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USACE Civil Works project, and the District Engineer issues a written GP 46 authorization.

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work would cause unreasonable obstruction to the free navigation of the navigable waters, the permittee shall 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.

8. 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.
9. In issuing individual authorization under this General Permit, the Government shall rely on the information and data, which the permittee provides in connection with the permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization could be modified, suspended, or revoked, in whole or in part, and/or the Government could, in addition, institute appropriate legal proceedings.
10. The permittee shall immediately notify the Corps of any unforeseen activities, including emergency activities, that are directly or indirectly associated with the authorized activity and that may require separate authorization.
11. The General Permit shall be valid for five years from its effective date. At the end of that time, the cumulative environmental effects of completed work shall be reviewed and reissuance of the permit could be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it could be modified or terminated at any time.
12. Authorization under this General Permit shall be valid until the General Permit expires. Activities which are under construction, or that are under contract to commence in reliance upon this General Permit, shall remain authorized provided the activity is completed within 12 months of the date of the expiration.

[MVK-2018-808, WQC2024024]

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-27-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. Prior to the start of construction activities, coverage under a Stormwater Construction General NPDES Permit shall be obtained. No construction activities shall begin until such approvals are obtained. (Statement F) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)
2. Extreme care shall be taken to prevent the permanent restriction or impedance of water flow. Pre-construction hydrology shall be maintained. (Statement E) (11 Miss. Admin. Code Pt. 6, R. 1.3.4 B (5))
3. All stream impacts shall be mitigated in kind with stream mitigation elements. In the event that stream mitigation is not available and alternate mitigation

proposals are provided, a pre-construction notification shall be provided to the Department and 10 working days shall be allowed to provide comments. (Statement E) (11 Miss. Admin. Code Pt. 6, R. 1.3.4 A (2))

4. A pre-construction notification shall be provided to the Department for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:
 - a. Justification of why the impacts cannot be avoided;
 - b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and
 - c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin.

(Statement A) (11 Miss. Admin. Code Pt. 6, R. 1.3.4 B (1))

5. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A)
6. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.(3))

As part of the Scope of Review for Application Decisions, 11 Mississippi Administrative Code Part 6, Rule 1.3.4(B), the above conditions are necessary for the Department to ensure that appropriate measures will be taken to eliminate unreasonable degradation and irreparable harm to waters of the State, such that the activity will not meet the criteria for denial:

- (A) The proposed activity permanently alters the aquatic ecosystem such that water quality criteria are violated and/or it no longer supports its existing or classified uses. An example is the channelization of streams.
- (B) There is a feasible alternative to the activity which reduces adverse consequences on water quality and classified or existing uses of waters of the State.
- (C) The proposed activity adversely impacts waters containing State or federally recognized threatened or endangered species.
- (D) The proposed activity adversely impacts a special or unique aquatic habitat, such as National or State Wild and Scenic Rivers and/or State Outstanding Resource Waters.

- (E) The proposed activity in conjunction with other activities may result in adverse cumulative impacts.
- (F) Nonpoint source/storm water management practices necessary to protect water quality have not been proposed.
- (G) Denial of wastewater permits and/or approvals by the State with regard to the proposed activities.
- (H) The proposed activity results in significant environmental impacts which may adversely impact water quality.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If you have any questions, please contact Carrie Barefoot.

Sincerely,



Becky Simonson
Chief, Environmental Permits Division

BS:po

cc: Tony Lobred, U.S. Army Corps of Engineers, Vicksburg District
Adam Johnson, Mississippi Department of Transportation
Willa Brantley, Department of Marine Resources
David Felder, U.S. Fish and Wildlife Service
Jamie Becker, Environmental Protection Agency