

FH-2



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

July 29, 2013

REPLY TO
ATTENTION OF:

South Branch
Regulatory Division

Mississippi Gulf Fishing Banks, Inc.
Attention: Mr. Ralph C. Humphrey, Jr.
Post Office Box 223
Biloxi, Mississippi 39533

Dear Mr. Humphrey:

I refer to your recent submittal of a request for either a Department of the Army permit or jurisdictional determination in Mississippi Sound. This project has been assigned file number **SAM-2013-00915-PAH**. The state reef permit number is FH-2 MD96-00999-V. It is important that you refer to the assigned number in all communication concerning this matter.

If after reviewing your submittal we determine that additional information is required, we will contact you.

If you have any questions, please feel free to contact me at (251) 690-3222.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Hegji".

Philip Hegji
Project Manager
Regulatory Division

FA-2



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

August 8, 2013

South Mississippi Branch
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit Number SAM-2013-00915-PAH,
Mississippi Gulf Fishing Banks, Inc.

Mississippi Gulf Fishing Banks, Inc.
Attention: Mr. Ralph Humphrey, Jr.
Post Office Box 223
Biloxi, Mississippi 39533

Dear Mr. Humphrey:

This letter is in response to your July 26, 2013, application for a Department of the Army (DA) permit to maintain and rehabilitate existing serviceable offshore artificial fishing reefs in Mississippi Sound within and beyond State Waters and the Territorial Seas. It has been assigned file number SAM-2013-00915-PAH, which should be referred to in all future correspondence with this office. The work will consist of placing concrete rubble and derelict steel-hulled vessels over the original footprint of the existing reefs; the location of these reefs has been previously marked on local navigation charts. Reef identification numbers, former permit numbers, and location coordinates are provided on the attachments to this permit.

DA permit authorization is necessary because your project would work in waters subject to our jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899, and Section 4(f) of the Outer Continental Shelf Lands Act of 1953. Based upon the information and plans you provided, we hereby verify that the work described above, which would be performed in accordance with the enclosed drawings, is authorized by Nationwide Permit (NWP) 3, *Maintenance*, in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions can be viewed at our website at <http://www.sam.usace.army.mil/Missions/Regulatory.aspx>. You must comply with all of the special and general conditions and any project specific conditions of this permit or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required.

The following project specific conditions are included with this verification: **a. You shall comply with all the terms and conditions of the Mississippi Department of Environmental Quality, Office of Pollution Control, Section 401 Certification and the Mississippi Department of Marine Resources' Coastal Program Consistency Determination.**

b. It is the permittee's responsibility to ensure the contractor(s) working on this project are aware of all general and special permit conditions.

c. Should artifacts or archaeological features be encountered during project activities, work shall cease and the Mississippi Department of Archives and History and Mobile District shall be consulted immediately.

d. Best management practices shall be implemented to minimize erosion, siltation and damage to waters of the United States. Appropriate erosion and siltation control measures must be used and maintained in effective operating condition during construction. All temporary erosion control features shall remain in place until permanent stabilization measures have been completed and have become fully effective.

e. In the event the permit is transferred, proof of delivery of a copy of the notification of permit transfer must be provided to the U. S. Army Corps of Engineers (Corps).

f. Should the scope of work for this project change, the permittee shall notify the Corps immediately for further information.

g. It is the permittee's responsibility to ensure that the contractors working on this project are aware of all general and special permit conditions.

h. Construction activities shall not infringe upon navigation on the waterway. These activities shall be in compliance with 33 CFR 163, which states in part: "A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows normally using the various waterways."

i. 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 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, 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.

j. It is the responsibility of the permittee to coordinate this activity with the Secretary of State, Public Trust Tidelands for any riparian rights issues or leases that may be required for impacting State water bottoms. Contact Mr. Raymond Carter, Tidelands Attorney, 1701 24th Avenue, Gulfport, Mississippi 39501, phone (228) 864-0254.

k. This permit does not authorize impacts to wetlands, submersed aquatic vegetation or natural shellfish beds.

The statements contained herein do not convey any property rights or any exclusive privileges and do not authorize any injury to property or obviate the requirements to obtain other local, State or Federal assent required by law.

The District Commander shall be notified promptly in writing at the commencement and completion of the work. The enclosed Compliance Certification sheets may be used for that purpose. Also, the enclosed Notice of Authorization must be posted at the site during construction of the permitted activity. If the scope of work or project location changes, you are urged to contact this office for a verification of this determination.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2017. Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work. If you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Please note, NWP General Condition 30 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. Enclosure 1, attached, is the form you must complete and return to us within 60 days of completion of the authorized work to satisfy this requirement.

A copy of this correspondence is being provided to the Mississippi Department of Marine Resources, Attention Ms. Jennifer Wittmann, 1141 Bayview Avenue, Biloxi, Mississippi 39530.

Please contact me at (251) 690-3222, if you have any questions. For additional information about our Regulatory Program, visit our web site at <http://www.sam.usace.Army.mil/Missions/Regulatory.aspx>, and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

Sincerely,



Philip A. Hegji
Project Manager
South Mississippi Branch
Regulatory Division

Enclosures

When the structures or work authorized by this nationwide permit SAM-2013-00915-PAH are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ (TRANSFEEE)

_____ (DATE)

FH-1 (MD96-00996-V): N-30°04.100' S-30°03.000' E-88°36.300' W-
88°37.000'
Depth=63-68 feet; Clearance 42 feet.

FH-2 (MD96-00999-V): N-30°05.600' S-30°04.660' E-88°32.800' W-
88°35.000' *0.0933 30.0777 88.5467*
Depth=54-56 feet; Clearance 30 feet.
88.5833

FH-3 (MD96-01000-V): N-30°09.960' S-30°09.880' E-88°44.960' W-
88°45.100'
Depth=45 feet; Clearance 30 feet.

FH-4 (MD96-01001-V): N-30°10.600' S-30°10.000' E-88°53.500' W-
88°54.100'
Depth=29 feet; Clearance 23 feet.

FH-5 (MD96-01002-V): N-30°11.000' S-30°10.450' E-88°49.900' W-
88°50.800'
Depth=35 feet; Clearance 25 feet.

FH-6 (MD96-01003-V): N-30°02.100' S-30°01.700' E-88°41.600' W-
88°41.800'
Depth=55-75 feet; Clearance 45 feet.

FH-7 (MD96-01004-V): N-29°37.500' S-29°36.700' E-88°23.500' W-
88°24.700'
Depth=125-130 feet; Clearance more than 85 feet.

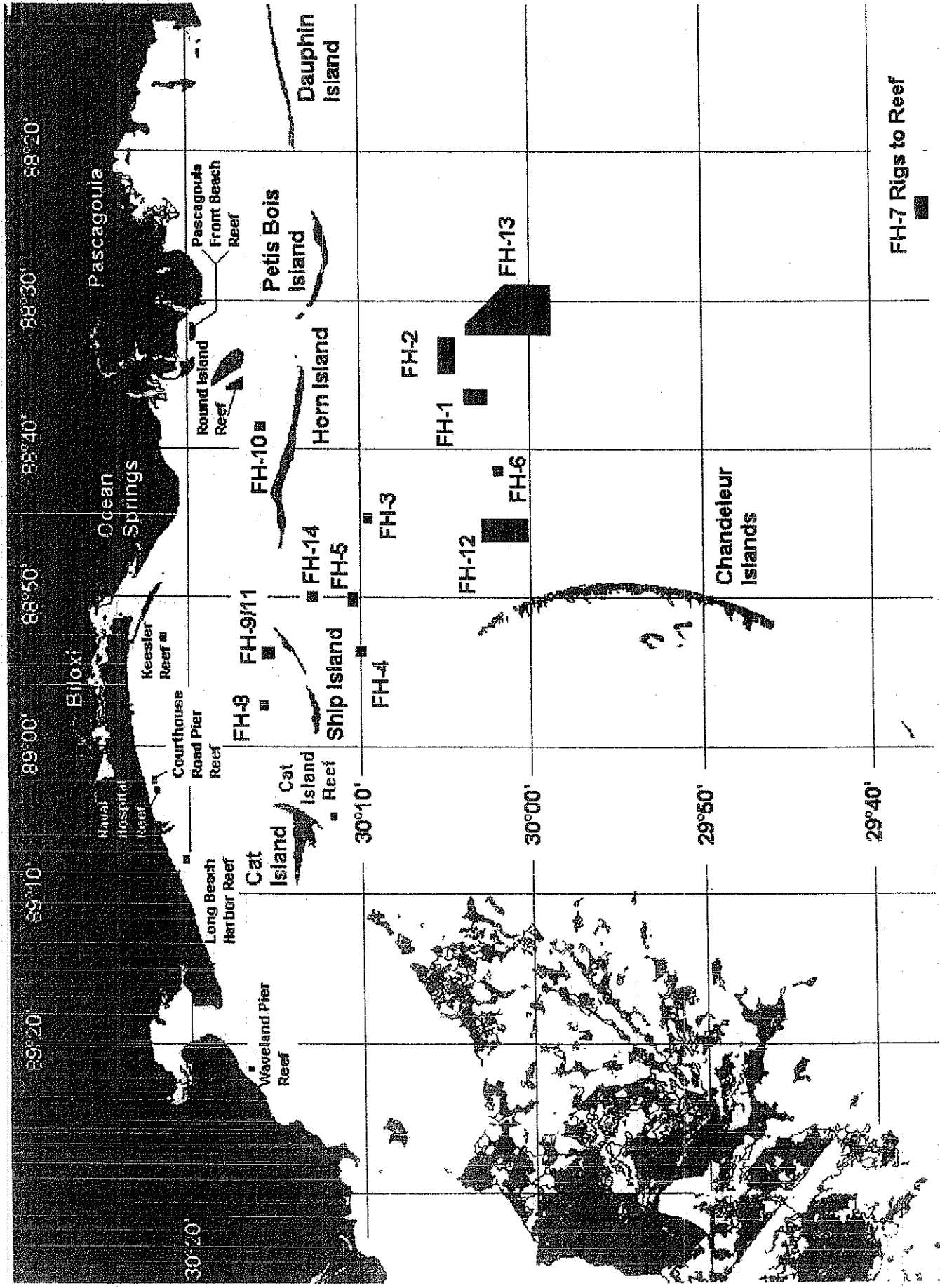
FH-8 (MD96-01005-V): N-30°16.100' S-30°15.900' E-88°57.600' W-
88°57.800'
Depth=15 feet; Clearance 12 feet.

FH-9/11 (MD96-01006-V & MD96-01008-V): N-30°16.000' S-30°15.300'
E-88°53.600' W-88°54.300' Depth=17-18 feet; Clearance 12 feet.

FH-10 (MD96-01007-V): N-30°16.000' S-30°15.860' E-88°38.900' W-
88°39.000'
Depth=9-14 feet; Clearance 7 feet.

FH-12 (MD96-01009-V): N-30°03.200' S-30°00.500' E-88°45.000' W-
88°46.500'
Depth=40-45 feet; Clearance 32 feet.

FH-13 (MD96-01010-V): NE1: Lat 30°04.000' Long 88°31.700'
NE2: Lat 30°01.700' Lon 88°29.300' S-29°59.200' E-88°29.300' W-
88°32.400'
Depth=65-89 feet; Clearance 63 feet.



SAM-2013-00915-PA14
 DEPT OF THE ARMY PERMIT

PERMIT GENERAL CONDITIONS/INFORMATION

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends 18 MARCH 2017. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. 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.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. 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. For your convenience, a copy of the certification is attached if it contains such conditions.
6. 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. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
2. 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 project.
3. 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.

Permit General Conditions / Information

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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.

4. **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.

5. **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 4 above).

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

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 to 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. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

COMPLIANCE CERTIFICATION



**U.S. Army Corps of Engineers
Mobile District**

Permit Number: **SAM-2013-00915-PAH**

Name of Permittee: **MISSISSIPPI GULF FISHING BANKS, INC.**

Date of Issuance: **AUGUST 8, 2013**

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Mobile District
Regulatory Division
Coastal Branch
Post Office Box 2288
Mobile, Alabama 36628-0001

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has commenced in accordance with the terms and conditions of the said permit, and the required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date



This notice of authorization must be
conspicuously displayed at the site of work.

United States Army Corps of Engineers

A permit to perform work authorized by statutes and regulations of the Department of the Army

at MISSISSIPPI SOUND, STATE OF MISSISSIPPI

has been issued to MISSISSIPPI GULF FISHING BANKS, INC on AUGUST 8, 2013

Address of Permittee POST OFFICE BOX 223, BILOXI, MISSISSIPPI 39533

Permit Number

SAM-2013-00915-PAH

For the

Philip A. Hegji

District Commander

PHILIP A. HEGJI

PROJECT MANAGER

SOUTH MISSISSIPPI BRANCH

REGULATORY DIVISION, CEV-601

ENG FORM 4336, Jul 81 (33 CFR 320-330) EDITION OF JUL 70 MAY BE USED