



**DEPARTMENT OF THE ARMY**  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
FORT MYERS REGULATORY OFFICE  
1520 ROYAL PALM SQUARE BOULEVARD, SUITE 310  
FORT MYERS, FLORIDA 33919

Regulatory Division  
South Permits Branch/West Permits Section  
Fort Myers Regulatory Office  
SAJ-2005-8775 (CDC)

OCT 12 2005

## **PUBLIC NOTICE**

### **REGIONAL GENERAL PERMIT SAJ-91**

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

**PROPOSAL:** To simplify and speed processing of Department of the Army permits, the Jacksonville District, U.S. Army Corps of Engineers (Corps) proposes to issue Regional General Permit SAJ-91 which gives general authority to the City of Cape Coral, under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, to administer this permit for riprap revetments, maintenance dredging, private single-family boat ramps, aerial transmission lines, subaqueous utility and transmission lines, private single-family docks and appurtenances, stormwater outfalls, bulkheads and backfill, and other minor structures located within the City of Cape Coral, Lee County, Florida. This permit will not authorize any work or structures along the Caloosahatchee River, Matlacha Pass Aquatic Preserve or within the Cape Coral Spreader Waterway.

**BACKGROUND:** The Jacksonville District, U.S. Army Corps of Engineers has recently been inundated with a large number of applications dealing with the construction of appurtances to single-family residences within the City of Cape Coral. The majority of these applications involve the construction of seawalls, installation of riprap, construction of single-family docks, and installation of boat lifts. Individually, these activities are minor in nature and are currently authorized under several existing General Permits and Nationwide Permits ([http://www.saj.usace.army.mil/permit/permitting/permit\\_types.htm](http://www.saj.usace.army.mil/permit/permitting/permit_types.htm)). Many of these projects are located in waters accessible to the federally endangered West Indian manatee (*Trichechus manatus*) and smalltooth sawfish (*Pristis pectinata*) or are located in waters that directly or indirectly affect the manatee and smalltooth sawfish.

In order to improve the review of these applications and their effects on the manatee, the Corps reviews all applications by using a dichotomous "Manatee Key". Projects evaluated as a "may affect" to the manatee are coordinated with the U.S. Fish and Wildlife Service (FWS) in accordance with Section 7 of the Endangered Species Act of 1973. Section 7 consultation with the FWS is a mandatory process between the FWS and any federal agency that by their action or decision, may affect a federally listed species. Upon completion of consultation with FWS or if a project is evaluated as a "no affect" the Corps can complete their permit evaluation. Permit review times can be as short as 1-2 weeks for seawall applications that do not require consultation with the FWS or as long as 3-5 months for single-family docks that do require consultation with the FWS.

The City of Cape Coral (City) also requires permits for these activities, whereas, most of these activities are exempt for purposes of state permitting. The Florida Department of Environmental Protection reviews proposed projects within the Cape Coral Spreader Waterway and along the Caloosahatchee River, but does not review projects located within manmade, upland cut canals such as those within much of Cape Coral. For those projects that the FDEP reviews in natural waterways, a joint review process between the Corps of Engineers and the FDEP already exists (SPGP III). What this proposed Regional General Permit proposes to do is to allow the City of Cape Coral, as a permitting agency, to review and approve certain minor activities within a narrow and defined scope. The administration of this "general permit" by the City would simplify and speed the process for authorizing minor activities where impacts to the manatee have been determined by utilizing the latest version of the approved manatee key to be minimal, while at the same time, ensure that larger projects with potential manatee impacts are individually reviewed by the Corps of Engineers so that they may be coordinated with the U.S. Fish and Wildlife Service.

The term "general permit" means a Department of the Army (DA) authorization that is issued on a nationwide or regional (District) basis for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative impacts. General permits are a way to reduce the burden of the regulatory program on the public and ensure timely issuance of permits while effectively administering the laws and regulations which establish and govern the program. General permits are reviewed every five years. An assessment of the cumulative impacts of work authorized under the general permit is performed at that time if it is in the public interest to do so. In most instances, anyone complying with the conditions of the general permit can receive project specific authorization. Anyone not complying with the conditions of a general permit may still receive authorization via a "standard permit", but the application must be individually evaluated and coordinated with third parties, including the federal and state resource agencies. Review of an application for a "standard permit" takes additional time to complete, as conflict resolution may be required.

A draft of the above described regional general permit follows:

## REGIONAL GENERAL PERMIT SAJ-91

RIPRAP REVETMENTS, MAINTENANCE DREDGING, PRIVATE SINGLE-FAMILY BOAT RAMPS, AERIAL TRANSMISSION LINES, SUBAQUEOUS UTILITY AND TRANSMISSION LINES, PRIVATE SINGLE-FAMILY DOCKS 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 (City) to administer this permit for riprap revetments, maintenance dredging, private single-family 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 in waters of the United States within the City of Cape Coral, Lee County, Florida. This permit does not authorize any work or structures along the Caloosahatchee River, Matlacha Pass Aquatic Preserve or within the Cape Coral Spreader Waterway.

### **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 canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).
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.

## **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. 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.
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. This permit does not authorize the discharge of dredged or fill material into navigable waters of the United States.
6. 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.
7. 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.
8. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).
9. 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 PRIVATE SINGLE-FAMILY 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 docks) requiring less than 100 cubic yards of fill material.
2. Where practical, bulkheads should extend no further than 1 to 2 feet water ward of the mean high water line, but in no case shall they exceed 5 feet water ward of the mean high water line. Tie-up docks 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 reentering any water of the United States (including wetlands) or interfering with natural drainage.
4. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).
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.

### **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. When the work is completed, the permittee shall notify the District Engineer at the letterhead address, attention Regulatory Division, and NOAA, Nautical Data Branch N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, MD 20910-3282. This notification will certify that the clearance of the wire above mean high water is as authorized.
5. 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.

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.

**E. CONDITIONS FOR SUBAQUEOUS UTILITY AND TRANSMISSION LINES:**

1. The work herein authorized includes the installation and maintenance of subaqueous utility and transmission lines placed 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 a self-contained 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. When the work is completed, the permittee shall notify the District Engineer, attention Regulatory Division, at the letterhead address, and NOAA, Nautical Data Branch N/CS26, Station 7317, 1315 East-West Highway, Silver Spring, MD 20910-3282. This notification will certify that the clearance of the line below water is authorized.

5. 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.

6. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).

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.

**F. CONDITIONS FOR PRIVATE SINGLE FAMILY DOCKS AND APPURTENANT STRUCTURES:**

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

does not authorize boat slips created through upland excavation/dredging and connecting the space to navigable waters.

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. 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.
5. Structures must not extend more than 25% of waterway width. Structures include vessels
6. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).
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 STORMWATER OUTFALLS:**

1. Structures authorized under this general permit are stormwater 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 maintenance dredging at prior permitted storm water outfalls. Maintenance dredging shall be limited to a depth of no more than 5 feet below ordinary high water in non-tidal, freshwater or 5 feet below mean low water in tidally influenced waters. 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. Spoil must be deposited in an approved upland site.
4. 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.

5. 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.

6. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).

7. In canals with 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.

8. 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 500 feet in length and not extend any farther water ward 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 water ward 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 aquatic 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 canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).

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.

#### **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. In canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve, the permittee shall follow the Standard Manatee Conditions for In-Water Work dated July 2005 (Paragraph J below).

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. STANDARD MANATEE CONDITIONS FOR IN-WATER WORK (July 2005) :**

The permittee shall comply with the following conditions intended to protect manatees from direct project effects during all water-related activities while working in canals with access to the Caloosahatchee River or Matlacha Pass Aquatic Preserve.

1. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
5. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) for south Florida.
6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

FWC Approved Manatee Educational Sign Suppliers:

<p>ASAP Signs &amp; Designs          624-B Pinellas Street          Clearwater, FL 33756          Phone: (727) 443-4878          Fax: (727) 442-7573</p>	<p>Vital Signs          104615 Overseas Highway          Key Largo, FL 33037          Phone: (305) 451-5133          Fax: (305) 451-5163</p>
<p>Wilderness Graphics, Inc.          P. O. Box 1635          Tallahassee, FL 32302          Phone: (850) 224-6414          Fax: (850) 561-3943  <a href="http://www.wildernessgraphics.com">www.wildernessgraphics.com</a></p>	<p>Universal Signs &amp; Accessories          2912 Orange Avenue          Ft. Pierce, FL 34947          Phone: (800) 432-0331 or          (772) 461-0665          Fax: (772) 461-0669</p>
<p>Cape Coral Signs &amp; Designs          1311 Del Prado Boulevard          Cape Coral, FL 33990          Phone: (239) 772-9992          Fax: (239) 772-3848</p>	<p>New City Signs          1829 28<sup>th</sup> Street North          St. Petersburg, FL 33713          Phone: (727) 323-7897          Fax: (727) 323-1897</p>
<p>Municipal Supply &amp; Sign Co.          1095 Fifth Avenue, North          P. O. Box 1765          Naples, FL 33939-1765          Phone: (800) 329-5366 or          (239) 262-4639          Fax: (239) 262-4645  <a href="http://www.municipalsigns.com">www.municipalsigns.com</a></p>	<p>United Rentals Highway          Technologies          309 Angle Road          Ft. Pierce, FL 34947          Phone: (772) 489-8772          or (800) 489-8758 (FL only)          Fax: (772) 489-8757</p>

***Manatee sign:***

**CAUTION: MANATEE HABITAT**

All project vessels

**IDLE SPEED / NO WAKE**

When a manatee is within 50 feet of work  
 all in-water activities must

**SHUT DOWN**

Report any collision or injury to:  
**1-888-404-FWCC** (1-888-404-3922)

Florida Fish and Wildlife Conservation Commission

## **SPECIAL CONDITIONS FOR ALL WORK;**

1. No work shall be performed until the applicant 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 Waterway.
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 activity shall be authorized under this general permit which may affect registered properties or properties listed as eligible for inclusion in the National Register of Historic Places.
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. The dichotomous key entitled "The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida – July 2005", will be used to determine potential manatee impacts. Projects judged as a "may affect" to the manatee are not authorized by this general permit and will be coordinated with the U.S. Fish and Wildlife Service by the Corps of Engineers in accordance with the Endangered Species Act. *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. 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.
10. 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.

11. This general permit shall be valid for a period of five years from the date issued unless suspended or revoked by issuance of a public notice by the District Engineer. The Corps will conduct periodic reviews to determine whether continuation of the permit is contrary to the public interest.

12. 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 this general permit will remain in effect provided the activity is completed within twelve months of the date this permit expired or was revoked.

13. For projects authorized under this permit in navigable waters of the U.S., 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.

14. 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 Condition 15 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 the City of Cape Coral and the Corps of Engineers, which may require restoration of the area.

15. This permit shall be recorded by the City of Cape Coral by location/lot and as such, automatically transfers to the new property owner. However, if you sell the property associated with this permit, it is your responsibility to notify the new property owner of the terms and conditions of this permit. If you sell the property associated with this permit prior to completion of the authorized activities, you must transfer this authorization through the City of Cape Coral.

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

## **GENERAL CONDITIONS FOR DEPARTMENT OF THE ARMY PERMITS:**

1. The time limit for completing the work authorized ends on: (5 years from issue date).
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.

**AGENCY COORDINATION:** This proposed permit is being coordinated via separate letters with the U.S. Fish and Wildlife Service and National Marine Fisheries Service as required under Section 7 of the Endangered Species Act, and with the National Marine Fisheries Service for Essential Fish Habitat as required under the Magnuson-Stevens Fishery Conservation and Management Act.

**RESPONSE:** Comments regarding this proposed issuance of Regional General Permit SAJ-91 should be submitted in writing to the District Engineer at the above address within forty-five (45) days from the date of this notice. If you have any questions concerning this proposal, you may contact Ms. Carol Crane at the letterhead address or by electronic mail at [Carol.D.Crane@saj02.usace.army.mil](mailto:Carol.D.Crane@saj02.usace.army.mil) .

Lawrence C. Evans  
Chief, Regulatory Division

# City of Cape Coral, Florida



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**IMPACT ON NATURAL RESOURCES:** Preliminary review of this application indicates that an Environmental Impact Statement will not be required. Coordination with US Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area. By means of this notice, we are soliciting comments on the potential effects of the project on threatened or endangered species or their habitat.

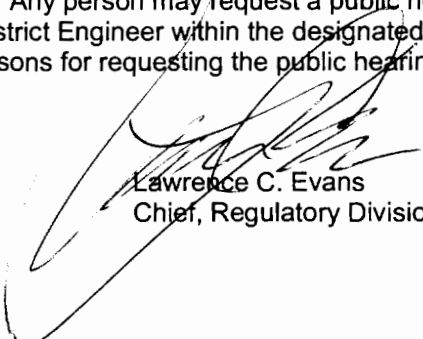
**IMPACT ON CULTURAL RESOURCES:** Review of the latest published version of the National Register of Historic Places indicates that no registered properties, or properties listed as eligible for inclusion therein, are located at the site of the proposed work. Presently, unknown archaeological, scientific, prehistorical, or historical data may be lost or destroyed by the work to be accomplished.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act of the criteria established under authority of Section 102(a) of the Marine, Protection, Research, and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make or deny this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and Natural Resources permit constitutes compliance with approved Coastal Zone Management Plan.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.



Lawrence C. Evans  
Chief, Regulatory Division