



**US Army Corps
of Engineers**

Vicksburg District

**4155 Clay Street
Vicksburg, MS 39183-3435
www.mvk.usace.army.mil**

General Permit

FILE NO.: General Permit 60
DATE: September 18, 2019
EXPIRES: September 18, 2024

**FOR: REGULATED ACTIVITIES IN WATERS OF THE UNITED STATES
ASSOCIATED WITH MINOR CONSTRUCTION ACTIVITIES ON ENTERGY-OWNED
ARKANSAS HYDROPOWER LAKES**

**MVK-PGP-60-A: SHORELINE STABILIZATION/RETAINING WALLS
MVK-PGP-60-B: BOAT RAMPS
MVK-PGP-60-C: DREDGING/EXCAVATION
MVK-PGP-60-D: CUT-IN BOAT DOCKS
MVK-PGP-60-E: SWIM AREAS**

**WHERE: LAKE CATHERINE AND LAKE HAMILTON, GARLAND AND HOT SPRING
COUNTIES, ARKANSAS, WITHIN THE REGULATORY JURISDICTION OF THE
VICKSBURG DISTRICT**

**BY WHOM: DISTRICT ENGINEER, VICKSBURG DISTRICT, ON BEHALF OF
ENTERGY ARKANSAS, INCORPORATED, HYDRO OPERATIONS**

The U.S. Army Corps of Engineers (USACE), Vicksburg District, is hereby issuing a Department of the Army Programmatic General Permit for minor construction activities within waters of the United States, which includes an associated discharge of dredged and/or fill material within the regulatory jurisdiction of the Vicksburg District on Entergy-owned lakes in the State of Arkansas. A map identifying the Vicksburg District is provided (enclosure 1). A general location map identifying the two Entergy-owned lakes: Catherine and Hamilton, within the Vicksburg District is provided (enclosure 2).

This General Permit contains certain conditions and limitations intended to protect the environment and natural and cultural resources. Conformance with conditions contained in this General Permit would not necessarily guarantee authorization under this General Permit. In cases where the Corps District Engineer or Entergy personnel considers it necessary, an application will be required for an individual permit.

This action is being taken pursuant to Federal regulations printed in the Federal Register on November 13, 1986, concerning permits for activities in waters of the United States (U.S.). These regulations state the U.S. Army Corps of Engineers' responsibility for regulating structures or work in or affecting navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403) and discharges of dredged and/or fill material into waters of the U.S. under Section 404 of the Clean Water Act (33 U.S.C. 1344).

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 office of the Vicksburg District's Regulatory Branch at 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

In compliance with requirements of Section 401 of the Clean Water Act, the Vicksburg District has obtained water quality certification (WQC) from the Arkansas Department of Environmental Quality, stating that the work authorized by the General Permit will not violate applicable provisions of Sections 301, 302, 306, and 307 of the Act, provided the applicant complies with the conditions of the WQC. A copy of the certification, with required conditions, is attached (enclosure 3).

Authorization to conduct work under this General Permit does not negate the responsibility of the applicant to obtain other State or local authorizations or permits required by law for the proposed activity.

This General Permit does not supersede any of the agreed upon regulations that are in the Federal Energy Regulatory Commission (FERC) approved Shoreline Management Plan for Lakes Catherine and Hamilton.

REQUEST FOR AUTHORIZATION UNDER THE GENERAL PERMIT: In order to be authorized by this General Permit, persons proposing the work are required to submit to the Entergy Arkansas, Incorporated, Hydro Operations Office, in writing, a completed application form, which includes location maps and drawings. The required form may be obtained online through the Entergy Arkansas, Incorporated website (<http://www.energy.com/shorelineapplication>) or by contacting: Entergy Arkansas, Incorporated, Hydro Operations Office, 141 West County Line Road, Malvern, Arkansas 72104; telephone 501-844-2148.

Upon receipt of this information, the Entergy Arkansas Hydro Operations Office will evaluate the proposal and advise the inquiring party, in writing, that the work will or will not be authorized under the General Permit.

If the work is authorized under the General Permit, the Entergy Arkansas Hydro Operations Office will send a copy of the letter of approval along with the background information to the Vicksburg District for administrative purposes.

Listed below are the types of activities that may be authorized under this Programmatic General Permit, along with the special conditions and limitations.

DEFINITIONS:

Excavation – Removal of newly deposited silt or other material through means that result only in incidental fallback.

Dredging – Any form of excavation under the surface of waters of the U.S.

Wetlands – For this Programmatic General Permit, the Corps recognizes wetlands at Lakes Hamilton and Catherine as those areas previously identified in Entergy's Shoreline Management Plan as "Limited Use – Existing Wetlands Areas."

Ordinary High Water Mark (OHWM) – A line on the shore established by the fluctuation of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

1. MVK-PGP-60-A: Shoreline Stabilization/Retaining Walls: This General Permit authorizes the construction of retaining walls, the placement of armoring systems (rip rap), bioengineering, and other standard shoreline protection/stabilization devices at, along, or roughly paralleling the shoreline or bank.
 - a. Retaining wall construction is limited to a total project length of 750 linear feet. There is no limit to the length that may be authorized for other protection devices.
 - b. Protection structures must be positioned:
 - 1) at or below the ordinary high water mark in waterbodies;
 - 2) landward of all jurisdictional wetlands.
 - c. No wetlands shall be filled, although protection devices may be constructed for wetland areas, as long as the wetlands themselves are not otherwise adversely affected.
 - (1) If the area or any portion to be protected is a wetland, the shore protection device must be designed to allow the normal hydrologic regime to be maintained in wetland areas.
 - (2) Flow-through retaining walls (e.g., gabions) designed to dissipate wave energy in wetland areas may be constructed waterward of the wetlands and placed below the ordinary high water mark, if they are designed to allow for the normal hydrologic regime and they do not interfere with navigation.

- d. Armoring material (e.g., rip rap) placed below the plane of ordinary high water may not exceed an average of one (1) cubic yard per linear foot of shoreline being protected.
- e. Vertical face structures intended to replace failing erosion control structures may be placed waterward of the ordinary high water mark, but shall not extend more than 24 inches waterward from the base of the failed structure. In no instances shall vegetated wetlands (emergent or submerged) or shellfish beds be filled.
- f. Rip rap or other approved stabilization material shall not extend farther than six feet into the waterway from the ordinary high water mark indicated on the shoreline/bank.
- g. Use of the appropriate filter fabric is required to stabilize backfill and other easily eroded material.
- h. Only clean material, free of waste, metal and organic trash, unsightly debris, petroleum products (e.g., asphalt), etc., may be used as backfill.
- i. Only clean rip rap material, free of exposed rebar, asphalt, plastic, soil, etc., may be used as armoring material to augment/armor other protection devices/measures.
- j. Solid groins and jetties roughly perpendicular to the shoreline may not be authorized under this General Permit.
- k. This General Permit may not be used to create fast land, or otherwise accrete land.

2. MVK-PGP-60-B: Boat Ramps: This General Permit authorizes the construction or modification of boat ramps.

- a. Care shall be taken in the placement of boat ramps to avoid interrupting the natural movement of sediments.
- b. Stormwater runoff from boat ramp approaches and parking areas shall not be directed down the boat ramp.
- c. This type of activity is limited to 100 cubic yards of dredged material and 25 cubic yards of fill material placed below ordinary high water mark. Fill material must be approved by Entergy personnel (e.g., concrete).
- d. Best management practices should be used at all times during construction to minimize turbidity at both the dredge site(s) and aquatic discharge (fill) site(s).
- e. All material not used as backfill shall be placed in uplands, and no runoff water from these disposal sites shall be allowed to enter the waterway or adjacent wetlands, unless specifically authorized.

- f. Dredge material discharge/disposal site(s) shall be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
- g. No dredging or filling is authorized in wetlands or submerged grass beds (exceptions may be made for noxious and/or exotic vegetation in man-made water bodies), and no dredged material shall be used to raise the elevation of any wetlands, unless otherwise specifically authorized.

3. MVK-PGP-60-C: Dredging/Excavation: This General Permit authorizes dredging/excavation to depths no greater than the depth of the lake bottom leading to the area to be maintained.

- a. Dredging shall be limited to the previously dredged and previously authorized dimensions.
- b. Dredging of up to 500 cubic yards of material is authorized by this General Permit.
- c. Best management practices shall be used at all times during construction to minimize turbidity at both the dredge site and aquatic discharge (fill) site(s).
- d. All dredged material shall be properly confined in an upland area, unless otherwise specifically authorized.
- e. Dredged material discharge/disposal site(s) shall be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
- f. No dredging is authorized in wetlands or designated fish spawning nursery areas. Exceptions may be made for noxious and/or exotic vegetation in man-made water bodies.

4. MVK-PGP-60-D: Cut-In Boat Docks: This General Permit authorizes the placement of dredged and/or fill material related to the construction and installation of cut-in boat docks.

- a. No keyhole slips are permitted.
- b. Cut-in slips shall be indented, or angled such that the cut-in is less than or equal to 45 degrees. Cut-in slips shall not be situated such that they are perpendicular to the shoreline (e.g., with 90 degree sides).
- c. Best management practices should be used at all times during construction to minimize turbidity at both the dredge site(s) and aquatic discharge (fill) site(s).

- d. All material not used as backfill shall be placed in uplands, and no runoff water from these disposal sites shall be allowed to enter the waterway or adjacent wetlands, unless specifically authorized.
 - e. Dredge material discharge/disposal areas shall be immediately seeded and stabilized to prevent the movement of sediment off-site and into adjacent drainage areas.
 - f. No dredging or filling is authorized in wetlands or designated fish spawning nursery areas. Exceptions may be made for noxious and/or exotic vegetation in man-made water bodies and no dredged material shall be used to raise the elevation of any wetlands, unless otherwise specifically authorized.
 - g. Disturbed wetland areas shall be revegetated with naturally occurring indigenous species, if the area has not revegetated to pre-project conditions within one year of project completion.
5. MVK-PGP-60-E: Swim Areas: This General Permit authorizes small swim areas.
- a. Swim area fill dimensions are limited to no more than 30 feet long, 30 feet wide, and 6 inches deep.
 - b. Only pea gravel shall be used as fill.
 - c. No fill is authorized in wetlands or designated fish spawning nursery areas.

General Conditions:

- a. 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, is 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 should 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).

Note: Ground disturbance activities will continue to be evaluated and issued under the guidelines contained in the Historic Properties Management Plan (HPMP) and under the Programmatic Agreement among the Federal Energy Regulatory Commission, Entergy Corporation, the Arkansas State Historic Preservation Officer, and interested federally recognized tribes.

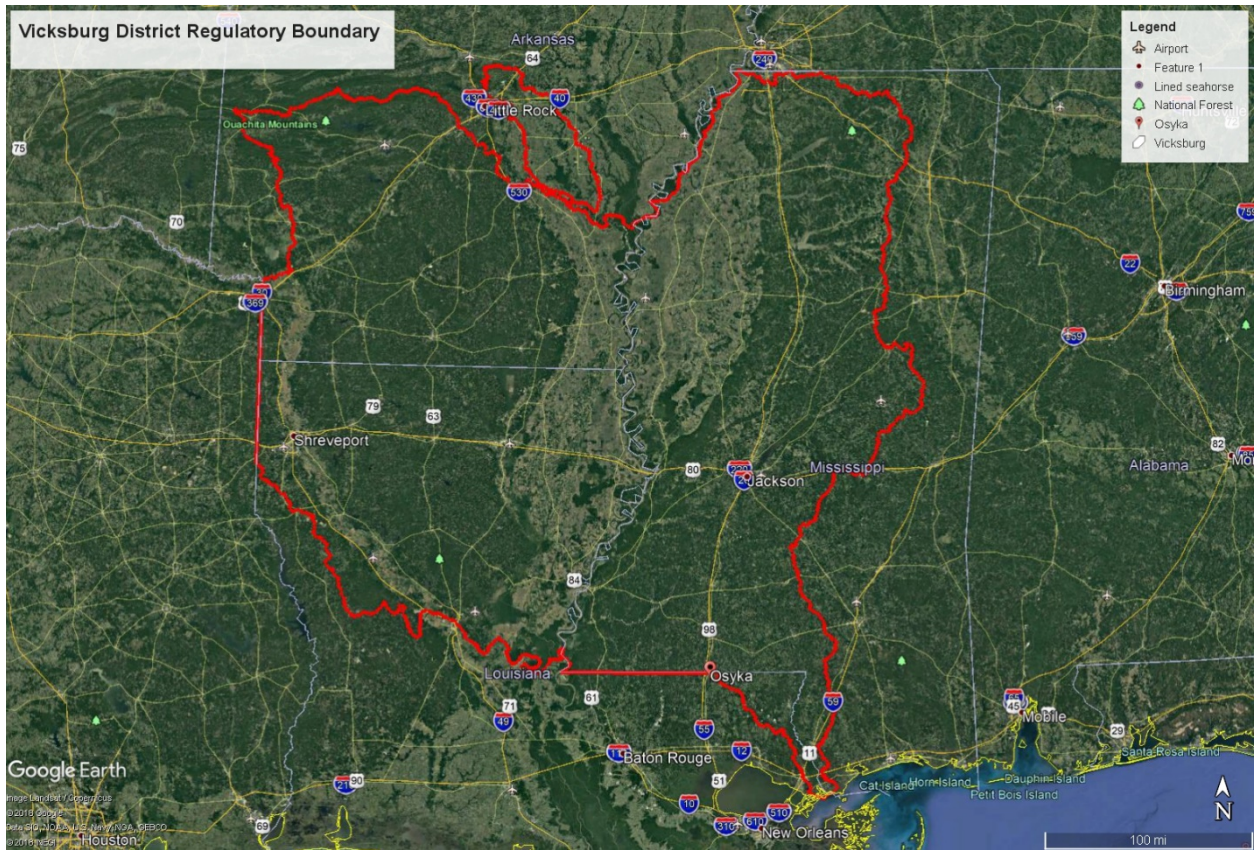
- b. No activity is authorized under this General Permit which is likely to directly or indirectly jeopardize the continued existence of a Federally-listed threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is 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.
- c. Dredged, excavated, or fill material used for construction shall be non-polluting material, in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.
- d. All fill material shall be compacted upon completion of construction. Best management practices should be used at all times during construction to minimize turbidity at dredge site(s) and/or discharge site(s). The site should be naturally revegetated or manually seeded, or sodded as necessary, to restore cover and prevent erosion. In areas subject to currents, rip rap could be required for slope protection.
- e. All material not used as backfill shall be placed in uplands, and no runoff water from these disposal sites shall be allowed to enter the waterway or adjacent wetlands, unless specifically authorized.
- f. The discharge shall not be located so as to adversely affect a public water supply intake and/or a national or state fish hatchery intake.
- g. The discharge shall not contain unacceptable levels of pathogenic organisms in areas used for sports involving physical contact with the water.
- h. The discharge shall not occur in areas of concentrated shellfish production.
- i. All construction activities shall be performed in a manner that will minimize increased suspended sediment/turbidity of the water in the work area, and otherwise avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons.
- j. The construction activity shall not result in the relocation of the stream or river channel, and shall not impede stream flow.
- k. Authorized structures shall not increase frequency, duration, or elevation of floodwaters on adjoining property.
- l. Creation of fast lands is not authorized under this General Permit.

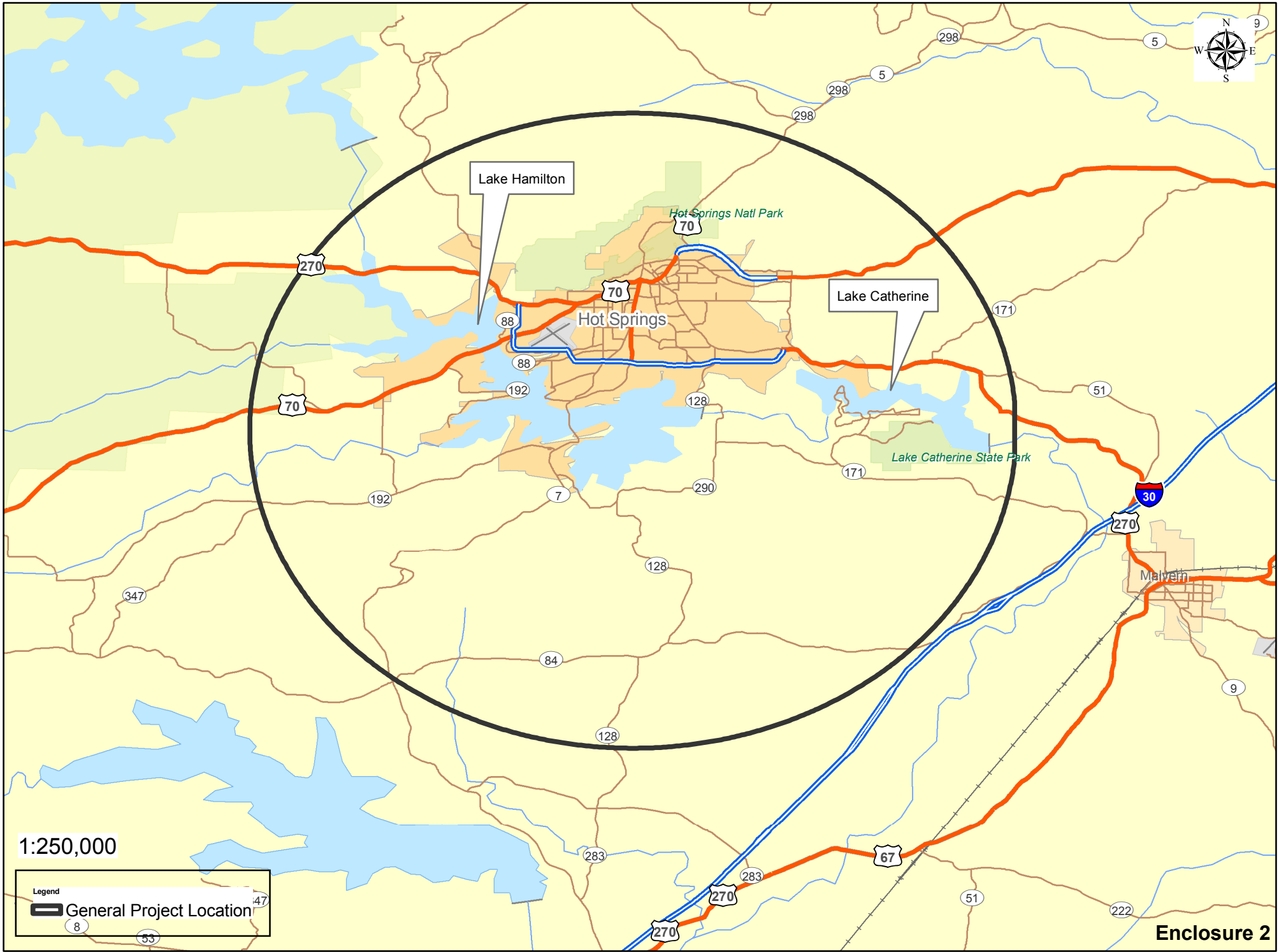
- m. Authorization may not be granted for structures and activities that may be hazardous to navigation or that may produce adverse effects on the chemical, physical, or biological integrity of water bodies, such as the dredging and filling of wetlands. The term "wetland" means those areas that are inundated 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, and similar areas. Such areas serve important purposes relating to water quality, fish and wildlife, recreation, and other elements in the general public interest. As environmentally vital areas, they constitute productive and valuable public resources, the unnecessary alteration or destruction of which is contrary to the public interest.
- n. The regulated work shall not occur within 1,500 feet of a colonial wading bird rookery location, without the consent of the U.S. Fish and Wildlife Service. The permittee is 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 is 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.
- o. The time limit for completing an authorized activity ends one year from the date of the activity specific authorization. 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 one month before the expiration date.
- p. The permittee agrees to make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.
- q. You must maintain the activity authorized by the permit in good condition and in conformance with the terms and conditions of the permit. You are not relieved of this requirement if the permitted activity is abandoned. However, a good faith transfer to a third party in compliance with General Condition "r.", below, is acceptable. If you desire to abandon the authorized activity without a good faith transfer, or wish to cease to maintain the authorized activity, a modification of the authorization is required from this office, which could require restoration of the area.
- r. If you sell the property associated with the authorization under this General Permit, you must contact this office to ensure that the authorization is transferred to the new owner.
- s. 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 the permit.

- t. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- u. This permit does not grant any property rights or exclusive privileges.
- v. This permit does not authorize any injury to the property or rights of others.
- w. This permit does not authorize interference with any existing or proposed Federal project.
- x. In issuing this permit, the Federal Government, State of Arkansas, designated resource agencies, their employees or staffs does not assume any liability for the following:
 - (1) Damages to the permitted project, or uses thereof, as a result of other permitted or unpermitted activities, or from natural causes.
 - (2) 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.
 - (3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - (4) Design or construction deficiencies associated with the permitted work.
 - (5) Damage claims associated with any future modification, suspension, or revocation of this permit.
- y. In issuing individual authorizations under these General Permits, the Government will rely on the information and data, which the permittee provides in connection with his/her permit application. If, subsequent to the authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government could, in addition, institute appropriate legal proceedings.
- z. This General Permit is valid for five years from its effective date. At the end of that time, the cumulative environmental effects of completed work will be reviewed and reissuance of the permit may be considered. However, if unforeseen adverse environmental effects result from the issuance of this General Permit, it may be modified or terminated at any time.


Cori Carraway
Acting Chief, Regulatory Branch

Enclosures





Lake Hamilton


Hot Springs Natl Park

Lake Catherine

Lake Catherine State Park

1:250,000

Legend

 General Project Location



May 2, 2019

Colonel Michael C. Derosier, District Commander
U.S. Army Corps of Engineers
4155 Clay Street
Vicksburg, MS 39183-3435

RE: 401 Water Quality Certification **MVK-2019-271**- Re-issuance of General Permit 60

Dear Colonel Derosier:

The Arkansas Department of Environmental Quality ("ADEQ") has completed review of the above referenced public notice for the re-issuance of the U.S. Army Corps of Engineers General Permit 60 for the State of Arkansas. General Permit 60 authorizes minor construction activities on Entergy-owned Arkansas hydropower lakes.

ADEQ has determined that there is a reasonable assurance that this activity will be conducted in a manner which, according to the Arkansas Pollution Control and Ecology Commission's Regulation No.2, will not physically alter a significant segment of the waterbody and will not permanently violate the water quality criteria.

Pursuant to §401(a)(1) of the Clean Water Act, the ADEQ hereby issues water quality certification for this project: **MVK-2019-271**, contingent upon the following conditions:

1. Individual Water Quality Certification requests must be submitted to ADEQ for any activity impacting Extraordinary Resource Waters, Ecologically Sensitive Waters, and Natural and Scenic Waters as identified in Regulation No. 2.
2. The applicant shall contact ADEQ for a Short Term Activity Authorization needs determination for activities that have the potential to violate water quality criteria.
3. If a construction site will disturb equal to or greater than one (1) acre and less than five (5) acres, the applicant shall comply with the requirements in Reg. 6.203 for Stormwater discharge associated with a small construction site, as defined in APC&EC Regulation No. 6. If the construction site will disturb five (5) acres or more, the applicant shall comply with the terms of the Stormwater Construction General Permit Number ARR150000 prior to the start of construction. BMPs must be implemented regardless of the size. More information can be obtained by contacting the NPDES Stormwater Section of ADEQ at (501) 682-0621.

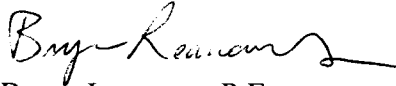
In issuing this certification, ADEQ does not assume any liability for the following:

- A. Damages to the proposed project, or uses thereof, as a result of other permitted or unpermitted activities or from natural causes.
- B. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity specified in this certification.

C. Design or construction deficiencies associated with this proposed project.

Please contact Melanie Treat of the Office of Water Quality at (501) 682-0040 if you have any questions regarding this certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Leamons". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryan Leamons, P.E.

Senior Operations Manager, Office of Water Quality

Cc: Jennifer A. Mallard, USACE, generalpermitreissuance@usace.army.mil
Wanda Boyd, EPA, boyd.wanda@epa.gov