

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
(Corpus Christi)
No. 2:15-CV-00514**

FRIENDS OF LYDIA ANN CHANNEL,)

Plaintiff,)

v.)

UNITED STATES ARMY CORPS OF)
ENGINEERS, et al.,)

Defendants.)
_____)

DEFENDANTS’ NOTICE OF SUSPENSION OF LETTER OF PERMISSION

By letter dated March 23, 2016, the U.S. Army Corps of Engineers suspended the letter of permission (DA Permit SWG-2014-00460) challenged by Plaintiff in this case. *See* Ex. 1. The Corps determined the project was not in compliance with the terms and conditions of the letter of permission, and accordingly, the Corps suspended the letter of permission under 33 C.F.R. § 325.7. This regulation outlines the Corps’ authority to modify, suspend, and revoke permits. Suspension is the first step in the Corps’ reevaluation of this project. The Corps is not authorized to immediately revoke a letter of permission without first suspending it. 33 C.F.R. § 325.7 (e). Defendants will be prepared to discuss the suspension and its potential impacts on this litigation at the March 30, 2016, status conference.

Dated: March 28, 2016

Respectfully submitted,

JOHN C. CRUDEN,
Assistant Attorney General
U.S. Department of Justice
Environment & Natural Resources Division
Ben Franklin Station, P.O. Box 7611

Washington, D.C. 20044-7611

/s/ Carol L. Draper
CAROL L. DRAPER
Trial Attorney (PA Bar # 39388)
Natural Resource Section
Telephone: (202) 305-0465
Fax: (202) 305-0506
Email: carol.draper@usdoj.gov

S. JAY GOVINDAN, Assistant Chief

/s/ Lesley Lawrence-Hammer
LESLEY LAWRENCE-HAMMER
Trial Attorney (DC Bar # 982196)
Wildlife & Marine Resources Section
Phone: (202) 305-0217
Fax: (202) 305-0275
Email: lesley.lawrence-hammer@usdoj.gov

LANCE G. DUKE
Assistant United States Attorney
United States Attorney's Office
Southern District of Texas
Corpus Christi, Texas
Lance.Duke@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2016, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record.

/s/ Lesley Lawrence-Hammer
Lesley Lawrence-Hammer

EXHIBIT 1

Defendants' Notice of Suspension of Letter of Permission

Friends of Lydia Ann Channel v. United States Army Corps of Engineers, et al.
No. 2:15-CV-00514



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON, TEXAS 77553-1229

MAR 23 2016

Executive Office

SUBJECT: Suspension of Department of Army (DA) Permit SWG-2014-00460; Letter of Permission

Mr. Christopher Pietsch
Lydia Ann Channel Fleet
P.O. Box 60267
Corpus Christi, Texas 78466

Dear Mr. Pietsch:

This is in reference to the Letter of Permission (LOP) issued under DA Permit SWG-2014-00460, to install 82 steel mooring dolphins (pilings) that are 24 inches in diameter in water 12 feet deep for the purpose of providing moorings in the Lydia Ann Channel. The project is located in the Lydia Ann Channel, north of Port Aransas in both Aransas and Nueces Counties, Texas.

Based on a February 8, 2016 site visit, the U.S. Army Corps of Engineers (Corps) has concluded that the pilings are not in compliance with the permitted plans as some of the pilings are up to 17 meters off from where they were proposed to be placed, the onsite pilings differ from the ones that were permitted, and that two spud barge pilings were left after construction. The spud barge pilings have been removed but there is a need to review the non-permitted pilings and their effects on navigation. Therefore, the project is not in compliance with the terms and conditions of the LOP. In addition, the Corps has received additional information that the project's purpose and need has changed since issuance of the LOP.

As a result of this change in purpose and need and our determination that the project is not in compliance with the permit as issued; the LOP issued under DA Permit SWG-2014-00460 is suspended. The Corps will initiate the necessary steps outlined in 33 CFR 325.7 – Modification, Suspension or Revocation of Permits to re-evaluate the project under Standard Permit criteria.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Pannell", written over a horizontal line.

Richard P. Pannell
Colonel, U.S. Army
Commanding