



**US Army Corps
of Engineers**
Fort Worth District

Joint Public Notice

Number: CESWF-15-RGP-8

Activity: Boat Ramps and Minor Facilities

Date: January 27, 2015

REGIONAL GENERAL PERMIT

BOAT RAMPS AND MINOR FACILITIES

Interested parties are hereby notified that, in accordance with 33 CFR 322.2(f), 323.2(h), and 325.2(e)(2) published in the Federal Register November 13, 1986, the Fort Worth and Albuquerque districts of the U.S. Army Corps of Engineers (USACE) are issuing this regional general permit (RGP) to authorize the work described herein pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

The purpose of this RGP is to expedite authorization of recurring work that would have minimal adverse impact on the aquatic environment. This RGP contains provisions intended to protect the environment, including natural and cultural resources. Work that does not comply with these provisions may require an individual permit. However, compliance with the conditions contained in this RGP does not guarantee authorization of the work under this RGP. Work or structures that would have unacceptable impacts on the public interest are not authorized. Activities requiring Department of the Army authorization that are not specifically covered by this permit are prohibited unless authorized by a separate permit.

The proposed RGP was referenced in the public notice issued August 6, 2014, as CESWF-14-RGP-8 for the Fort Worth District (SWF) and SPA-2014-00355-LCO for the Albuquerque District (SPA). A second revised notice was issued October 14, 2014 proposing to add a portion of the Galveston District's area of responsibility on Toledo Bend Reservoir. The changes proposed in the revised public notice were not adopted. The RGP is valid for undertaking actions under its provisions until January 27, 2020.

REGIONAL GENERAL PERMIT (RGP) - 8

BOAT RAMPS AND MINOR FACILITIES

AUTHORIZED ACTIVITIES, LIMITATIONS AND CRITERIA

Work authorized by this Regional General Permit 8 is limited to the discharge of dredged and/or fill material into waters of the United States (U.S.), including wetlands, and work in, or affecting navigable waters of the U.S., associated with the construction, operation, modification and/or maintenance of boat ramps, water-related minor structures and facilities, and associated dredging. Expansion of existing facilities is included provided they were not previously approved under this general permit and exceed overall limits. Activities that may be authorized by this RGP include, but are not limited to:

SCOPE OF WORK

1. **Boat Ramps:** Work authorized for boat ramps by this RGP is limited to the construction and maintenance of hard surfaced inclined plane ramps for the purpose of launching boats for public, private, and commercial use.

Limitations associated with Boat Ramps include:

- No more than a total of 500 cubic yards of dredge and/or fill material may be placed below the ordinary high water mark in the construction of a boat ramp.
- Dredge material is restricted to native soils obtained at the work site. Fill material may be imported from an upland source and consist of dirt, concrete, sand, gravel, rock, and/or other coarse aggregate.
- Use of asphalt below the ordinary high water mark is not authorized.
- This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.

2. **Minor Structures and Facilities:** Work authorized for minor structures and facilities by this RGP is limited to the construction and maintenance of boat docks, boathouses, fishing piers, walkways, boat stalls, boat slips, ski jumps, swimming platforms, mooring devices and similar features for public, private, and commercial use. Appurtenant structures to docks, piers, walkways and boat stalls, such as bulkheads and stairways, are also authorized by this RGP.

Limitations for Minor Structures and Facilities include:

- Boat docks, boathouses, fishing piers, walkways, boat stalls, boat slips, ski jumps, swimming platforms, and mooring devices must be pile-supported or floating structures.
- Ski jumps, swimming platforms and similar features must be marked so as to be clearly visible to boat traffic, including reflective markers for night visibility. They must also be constructed and anchored to prevent their dislocation or submergence by wave or wind action as well as water level fluctuations.

- Navigable clearance must be maintained around the jump or platform.
 - Structures built in waterways shall not unreasonably interfere with navigation or disrupt visibility in a channel.
 - No structure can extend into the waterway more than 1/5 of the total width of the waterway or exceed 300 feet, whichever is less, measured perpendicular to the bank. For Toledo Bend Reservoir, Lake Tawakoni and Lake Fork, in conjunction with Shoreline Management Plans, structures in coves cannot exceed 1/3 the cove width, or 300 feet, whichever is less measured perpendicular to the bank.
 - This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.
3. **Dredging:** Work authorized for dredging associated with the construction, operation, modification or maintenance of boat ramps, minor structures and facilities, as well as boat access, is authorized by this RGP. Maintenance of previously dredged areas to pre-existing lines and grades is also included.

Limitations associated with Dredging include:

- Dredging for boat slips and/or stalls may not exceed 50 feet in width including top of the side slope.
 - Dredging for boat lanes to access boat slips, docks, and other minor structures may not exceed 20 feet in width including top of the side slope and may not exceed 300 feet in length. Lanes must be located to avoid and minimize impacts to wetlands.
 - Dredging for boat lanes to access boat ramps may not exceed 50 feet in width including top of the side slope and may not exceed 300 feet in length.
 - No more than 500 cubic yards may be dredged in open waters (including rivers) or wetlands in the wet.
 - No more than 1500 cubic yards may be dredged in reservoirs and lakes below the ordinary high water mark when the area is dry due to water variation/fluctuation.
 - Dredge material excavated with actions authorized under this RGP may be discharged below the ordinary high water mark in reservoirs and lakes provided it is not within wetlands or a shallow littoral zone (OHW to a depth of 3 feet).
 - Dredge material discharged below the ordinary high water mark must be placed in such a manner that it does not result in land reclamation and/or interfere with navigation in navigable waterways.
 - Dredged areas must result in positive and connected drainage to the main waterbody to avoid trapping of aquatic species but also must not be designed to eliminate waters of the U.S.
 - This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.
4. **Temporary Fills and Structures:** Temporary fills, including features such as cofferdams, platforms, and structures associated with constructing features authorized by this permit are included in this RGP. Material may be temporarily placed for construction into waters of the United States for up to 90 days provided that the material is placed in a manner that will not allow it to be dispersed by currents or other forces.

Limitations associated with Temporary Fills and Structures include:

- Permittees shall remove all excess material, including dredge material not to be left in the water body, and temporary fill and structures placed in waters of the United States, including wetlands, to upland areas and stabilize all exposed slopes and stream banks immediately upon completion of construction.
- Areas affected by temporary fill and/or structures shall be returned to preconstruction conditions or better, including revegetation with native vegetation.
- All material removed must be placed at least 50 feet from any water of the United States, including wetlands, and adequately contained to prevent the return to any water of the United States, including wetlands.
- This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.

CRITERIA APPLICABLE TO ALL ACTIONS

1. The discharges and work shall not cause the loss of greater than one (1) acre of waters of the United States for each single and complete project. "Loss of waters of the United States" is defined as "waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity."
2. Adverse impacts to waters of the United States, including wetlands, shall be avoided and minimized to the extent practicable.
3. All fills and structures authorized by this RGP must comply with the General Conditions contained in Appendix A.
4. Compensatory mitigation shall be provided for unavoidable loss and impacts/adverse effects to waters of the United States, including wetlands, when in excess of 0.1 acres and appropriate and practicable. Conversion of wetlands to open water due to dredging shall be mitigated. See Appendix D for details concerning compensatory mitigation and restoration plans.
5. Preconstruction Notification: Prior to construction, a prospective permittee must notify the USACE of the proposed work, in accordance with the requirements of the "Preconstruction Notification" as detailed in Appendix F.

It is the permit applicant's responsibility to ensure that all authorized structures and activities continue to meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this RGP may be considered for authorization by individual permit or other permits as applicable.

This RGP shall become effective on the date of the signature of the District Engineers, or their authorized representative(s), and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Verifications by the USACE that an activity is authorized by this RGP are valid until the expiration date of this RGP unless this RGP is modified, revoked, or extended before that date. Activities that have been verified by the USACE as authorized under this RGP, and have commenced (i.e. are under construction, or are under contract to commence), by the verification expiration date, will remain authorized provided the activity is completed within twelve months of the date of expiration, modification, or revocation of the RGP, or by another date determined by the USACE for the specific case, whichever is later, unless discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE DISTRICT ENGINEERS:

_____Signed_____ 1/27/15_____
Date

W. Neil Craig III, P.E.
Lieutenant Colonel, U.S. Army
Acting District Commander
Fort Worth District

Patrick J. Dagon
Lieutenant Colonel, U.S. Army
District Commander
Albuquerque District

Attachments:

- Appendix A – General Conditions
- Appendix B – Corps Districts in Texas
- Appendix C – Navigable Waters of the U.S. in Fort Worth and Albuquerque Districts RGP 8 is
Applicable To
- Appendix D – Compensatory Mitigation and Restoration Plans
- Appendix E – Potential Authorizations from Other Agencies
- Appendix F – Preconstruction Notification Requirement and Review Procedures
- Appendix G – Water Quality Certifications from Texas Commission on Environmental Quality and
Louisiana Department of Environmental Protection

APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT CESWF-14-RGP-8

1. In verifying authorization under this regional general permit (RGP), the Department of the Army has relied in part on the information provided by the permittee. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.
2. Structures and activities authorized by this RGP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. This RGP is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose: a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. This RGP does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. This RGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.
4. This RGP may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that such action would be in the public interest.
5. Modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.
6. This RGP does not authorize interference with any existing or proposed Federal project, and does not entitle the permittee to compensation for damage or injury to the structures or activities authorized herein that may result from existing or future operations undertaken by the United States in the public interest.
7. No attempt shall be made by permittees to prevent the full and free public use of any navigable water of the United States.
8. Permittees shall not cause any unreasonable interference with navigation.
9. Permittees shall conduct the activities in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse

impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly hard-mast-producing trees such as oaks and hickories. Permittees shall seek to maintain existing buffers around waters of the United States, including primarily streams and wetlands and create and/or expand buffers around waters of the United States when practicable.

10. All fills and structures above the existing ground elevation in waters of the United States shall minimize adverse impacts to local hydrology. Projects shall not promote the drainage of waters of the United States or cause unnecessary impoundment of water.

11. Permittees shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the activity is being performed in accordance with the terms and conditions of this RGP.

12. Permittees must evaluate the effect that the proposed work would have on historic and prehistoric properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to the initiation of work. If a known historic property would be affected, the permittee shall notify the USACE and shall not conduct any work in the permit area that would affect the property until the requirements of 33 CFR Part 325, Appendix C, have been satisfied. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately notify the USACE and avoid further impact to the site until the USACE has verified that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

13. Materials to be placed into waters of the United States are restricted to clean native soils and concrete, sand, gravel, rock, other coarse aggregate, and other suitable material. All material used shall be free of toxic pollutants in toxic quantities.

14. Permittees shall coordinate all construction activities in federally maintained channels and/or waterways for required setback distances with the USACE prior to application for a permit.

15. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

16. Activities that are likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that are likely to destroy or adversely modify the critical habitat of such species are not authorized. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

17. Permittees shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

18. The permittee shall implement best management practices to reduce the risk of transferring invasive plant and animal species to or from project sites. Information concerning state specific lists and threats can be found at: <http://www.invasivespeciesinfo.gov/unitedstates/tx.shtml>. Best

management practices can be found at:

<http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters can be found at: <http://nas.er.usgs.gov/queries/zmbyst.asp>.

19. Permittees shall not permanently restrict or impede the passage of normal or expected high flows unless the primary purpose of the activity is to temporarily impound water.

20. Permittees shall properly maintain all structures and fills to ensure public safety.

21. Permittees shall insure that projects have no more than minimal adverse impacts, including on public water supply intakes.

22. Stream realignment is not authorized by this RGP.

23. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

24. All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during and after construction until all exposed soil is permanently stabilized. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be implemented. All damage resulting from erosion and/or sedimentation shall be repaired.

25. Permittees are not authorized to discharge dredged or fill material into waters of the United States for purposes of disposal into, or reclamation of, an aquatic area, such as a wetland.

26. Permittees shall not use a jet barge or similar equipment for excavation.

27. Permittees shall mark structures or fills in navigable waters, when appropriate, so that their presence will be known to boaters.

28. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

29. Permittees are responsible for compliance with all terms and conditions of this RGP for all activities within the Department of the Army permit area of a project authorized by this RGP, including those taken on behalf of the permittee by other entities such as contractors and subcontractors. Permittees assume all liabilities associated with fills and impacts that are incurred by individuals and/or organizations working on contracts with the permittee. Before beginning work or directing a contractor to perform such work, permittees shall ensure that all parties read, understand and comply with the terms and conditions of this permit.

30. Permittees shall conduct dredging and excavation activities with land-based equipment rather than from the water body whenever practicable.

31. Permittees shall not construct facilities designed or used for human habitation nor those that include sewage or fuel handling facilities.

32. Permittees must comply with Federal Emergency Management Agency (FEMA), or FEMA-approved local floodplain development requirements in the placement of any permanent above-grade fills in waters of the United States, including wetlands, within the 100-year floodplain. The 100-year floodplain will be identified through FEMA's Flood Insurance Rate Maps or FEMA-approved local floodplain maps. A permanent above-grade fill is a discharge of dredged or fill material into waters of the United States, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land.

33. For all discharges proposed for authorization in Dallas, Denton, and Tarrant Counties that are within the study area of the "Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries" (May 1986), permittees shall meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements. A copy of these guidelines is available upon request from the Fort Worth District and at the District website www.swf.usace.army.mil/regulatory/.

34. To satisfy Texas Commission on Environmental Quality (TCEQ) water quality certification requirements for all projects to which Section 401 water quality certification by the TCEQ applies, the permittee must use at least one best management practice (BMP) from each of the first three categories of on-site water quality management and comply with item d. concerning contaminated dredged material below to satisfy TCEQ water quality certification requirements. Descriptions of the BMPs may be obtained from the TCEQ Standards Implementation Team by calling (512) 239-4671, by calling one of the Corps district regulatory offices identified in the "PRECONSTRUCTION NOTIFICATIONS" section of this RGP, or from the USACE, Fort Worth District, web site at <http://www.swf.usace.army.mil/regulatory/>. The TCEQ-required BMPs are as follows:

a. Erosion Control

Disturbed areas must be stabilized to prevent the introduction of sediment to adjacent wetlands or water bodies during wet weather conditions (erosion). *At least one* of the following best management practices (BMPs) must be maintained and remain in place until the area has been stabilized.

- Temporary Vegetation
- Blankets/Matting
- Mulch
- Sod

b. Post-Construction TSS Control

After construction has been completed and the site is stabilized, total suspended solids (TSS) loadings shall be controlled by *at least one* of the following BMPs.

- Retention/Irrigation

- Extended Detention Basin
- Vegetative Filter Strips
- Constructed Wetlands
- Wet Basins

c. Sedimentation Control

The project area must be isolated from adjacent wetlands and water bodies by the use of BMPs to confine sediment. *At least one* of the following BMPs must be maintained and remain in place until project completion.

- Sand Bag Berm
- Silt Fence
- Triangular Filter Dike
- Rock Berm
- Hay Bale Dike

Dredged material shall be placed in such a manner that prevents sediment runoff into water in the state, including wetlands. Water bodies can be isolated by the use of one or more of the required BMPs identified for sedimentation control. These BMPs must be maintained and remain in place until the dredged material is stabilized.

Hydraulically dredged material shall be disposed of in contained disposal areas. Effluent from contained disposal areas shall not exceed a TSS concentration of 300 mg/l.

d. Contaminated Dredged Material

If contaminated dredge material that was not anticipated or provided for in the permit application is encountered during dredging, operations shall cease immediately. Pursuant to 26.039 (b) of the Texas Water Code, the individual operating or responsible for the dredging operations shall notify the commission's emergency response team at (512) 463-7727 as soon as possible, and not later than 24 hours after the discovery of the material. The applicant shall also notify the Corps that activities have been temporarily halted. Contaminated dredge material shall be remediated or disposed of in accordance with TCEQ rules. Dredging activities shall not be resumed until authorized in writing by the Commission.

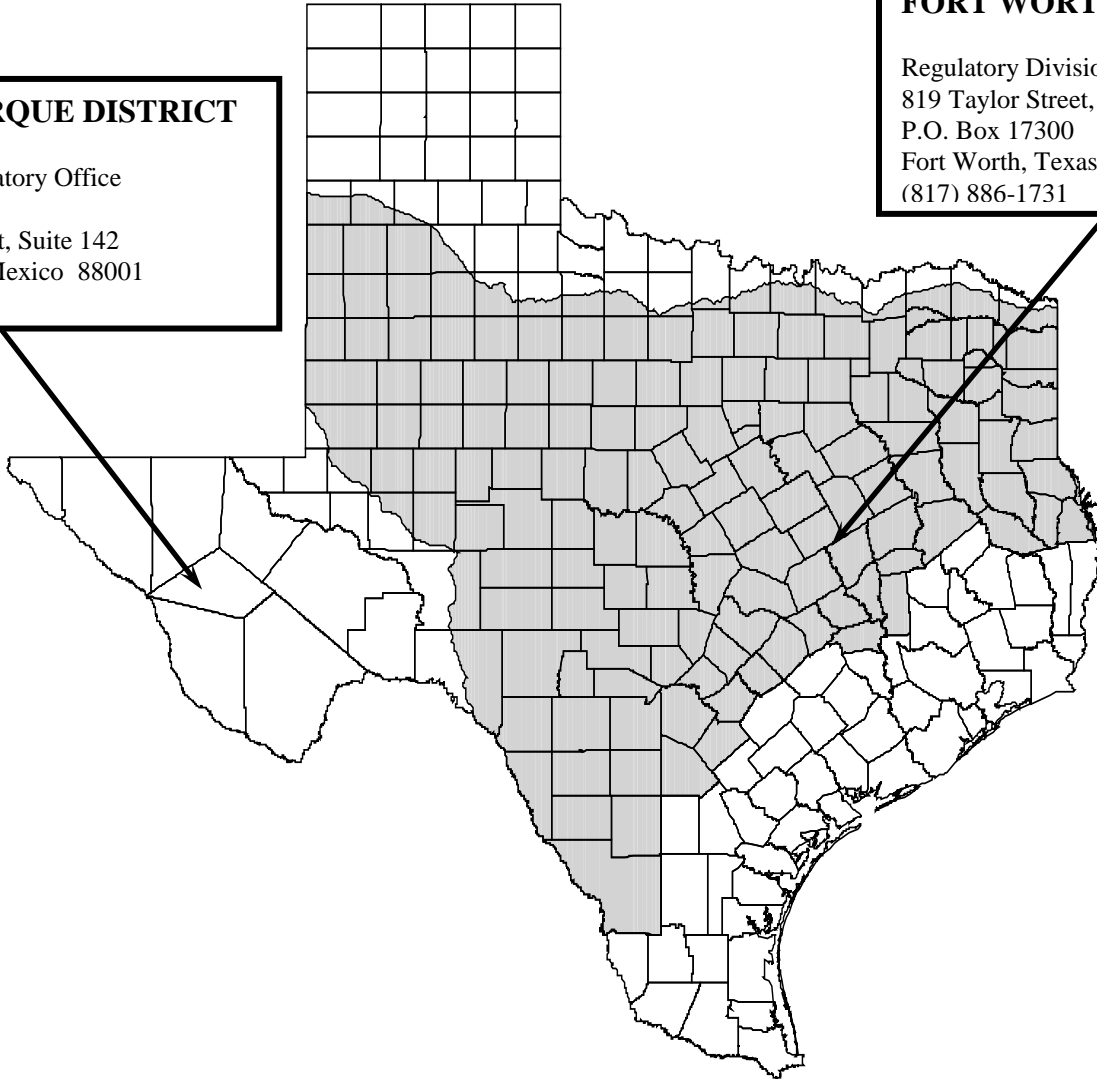
Contaminated dredge material is defined as dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants which include, but are not limited to solid waste, hazardous waste and hazardous waste constituent as those terms are defined by 30 TAC Chapter 335, Pollutants as defined by Texas Water Code 26.001 and Hazardous Substances as defined in the Texas Health and Safety Code, 361.003.

APPENDIX B

**CORPS DISTRICTS IN TEXAS
WHERE RGP 8 IS APPLICABLE**

ALBUQUERQUE DISTRICT
Las Cruces Regulatory Office
CESPA-RD-LC
505 S. Main Street, Suite 142
La Cruces, New Mexico 88001
(575) 556-9939

FORT WORTH DISTRICT
Regulatory Division, CESWF-DE-R
819 Taylor Street, Room 3A37
P.O. Box 17300
Fort Worth, Texas 76102-0300
(817) 886-1731



December, 2014

APPENDIX C

NAVIGABLE WATERS OF THE U.S.

For purposes of Section 10 of the Rivers and Harbors Act of 1899, the following sections of rivers, including their lakes and other impoundments, are considered to be navigable waters of the U.S. that fall within the jurisdiction of the Fort Worth and Albuquerque Districts of the U.S. Army Corps of Engineers in the states of Texas and Louisiana.

ANGELINA RIVER: From the Sam Rayburn Dam in Jasper County upstream to U. S. Highway 59 in Nacogdoches and Angelina counties and all U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Tyler and Jasper counties, Texas.

BIG CYPRESS BAYOU: From the Texas-Louisiana state line in Marion County, Texas, upstream to Ellison Creek Reservoir in Morris County, Texas.

BRAZOS RIVER: From the point of intersection of Grimes, Washington, and Waller counties upstream to Whitney Dam in Hill and Bosque counties, Texas.

COLORADO RIVER: From the Bastrop-Fayette county line upstream to Longhorn Dam in Travis County, Texas.

NECHES RIVER: U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Jasper and Tyler counties, Texas.

RED RIVER: From Denison Dam on Lake Texoma upstream to Warrens Bend which is 7.25 miles northeast of Marysville, Texas, and from the U. S. Highway 71 bridge north of Texarkana, Texas, to the Oklahoma-Arkansas Border.

RIO GRANDE: From the Zapata-Webb county line upstream to the point of intersection of the Texas-New Mexico state line and Mexico.

SABINE RIVER: From the point of intersection of the Sabine-Vernon parish line in Louisiana with Newton County, Texas upstream to the Sabine River-Big Sandy Creek confluence in Upshur County, Texas.

SULPHUR RIVER: From the Texas-Arkansas state line upstream to Wright Patman Dam in Cass and Bowie counties, Texas.

TRINITY RIVER: From the point of intersection of Houston, Madison, and Walker counties upstream to Riverside Drive in Fort Worth, Tarrant County, Texas.

APPENDIX D
COMPENSATORY MITIGATION
FOR LOSSES OF WATERS OF THE U.S.
AND RESTORATION PLANS FOR TEMPORARY IMPACTS

U.S. Army Corps of Engineers (USACE) evaluation of a project proposal submitted for authorization under this permit includes a determination of whether the applicant has taken sufficient measures to **mitigate** the project's likely adverse effects to the aquatic ecosystem (See USACE Compensatory Mitigation for Losses of Aquatic Resources; Final Rule: Federal Register, Vol. 73, No. 70, Thursday, April 10, 2008, and USACE district website for more detailed information). Applicants should employ the following three-step sequence in mitigating likely adverse project impacts: 1) take appropriate and practicable measures to **avoid** potential adverse impacts to the aquatic ecosystem; 2) employ appropriate and practicable measures to **minimize** unavoidable adverse impacts to the aquatic ecosystem; and 3) undertake appropriate and practicable measures to **compensate** for adverse impacts to the aquatic ecosystem that cannot be reasonably avoided or minimized. **Compensatory mitigation**, then, is the restoration, enhancement, creation, or preservation of wetlands and other waters of the U.S. to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

COMPENSATORY MITIGATION PLANS

Compensatory mitigation should replace those aquatic system functions that would be lost or impacted because of the proposed activity. The appropriate type and amount of compensatory mitigation depends on the nature and extent of the project's likely adverse impact on those functions performed by the aquatic area(s) that would be impacted. These functions include, but are not limited to, flood storage and conveyance; providing habitat for fish, aquatic organisms, and other wildlife, including endangered species; sediment and erosion control; groundwater recharge; nutrient removal; water supply; production of food, fiber, and timber; and recreation. Compensatory mitigation should also be commensurate with the scope and degree of the anticipated impacts and be practicable in terms of cost, existing technology, and logistics, in light of the overall project purpose.

In general, preference is given to the use of mitigation banks due to reduced risk and uncertainty commonly associated with permittee-responsible compensatory mitigation. For Permittee Responsible Mitigation (PRM), in-kind compensatory mitigation is preferable to out-of-kind and should occur as close to the location of the adverse impacts as practicable, generally in the same watershed. However, environmentally preferable out-of-kind and/or off-site compensatory mitigation may be acceptable. In some cases, it is appropriate to provide partial compensation at one location, such as the impact site, with the remainder occurring at an off-site location.

Normally, restoration or enhancement of wetland functions is preferable to wetland creation because the probability of successfully restoring or enhancing wetlands is greater than the probability of successfully creating new wetlands, and restoration and enhancement activities are less likely to impact upland and open water habitats. The preservation of existing wetlands is appropriate as compensatory mitigation only in exceptional situations.

PRM plans submitted with PCNs must include, but not be limited to:

- a) a thorough description of the proposed mitigation area including baseline data documenting ecological condition;
- b) a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures;
- c) plan and cross-section drawings of pertinent work and structures;
- d) a statement explaining how adverse impacts to local hydrology will be minimized; and
- e) a proposal for monitoring the success of the proposed mitigation plan. Generally, monitoring should continue for at least five years after mitigation activities are completed, providing planting survival and ecological success requirements have been achieved.

To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a conservation easement, may be required. More information may be found at 33 CFR 332.4(c)(1-14).

RESTORATION PLANS

Restoration plans submitted with PCNs must include restoration plans for impacts to waters of the U.S. as close to pre-existing conditions as practicable. Restoration plans must include, but not be limited to, the following:

- a) a detailed description of the impacts and areas of waters of the U.S. that will be addressed by the restoration plan;
- b) a map showing the proposed configuration of waters of the U.S., including wetlands, to be restored;
- c) a detailed description of the waters of the U.S. to be restored, including wetlands. This includes the restored hydrology, soils, and vegetation; information such as removal of placed dredged and/or fill material and its disposal; planting of woody vegetation locations and species; channel cross sections, alignment, plan, profile and dimension; soil erosion and sediment control features; other actions or features to achieve restoration.

Notification of Completed Restoration Work: Permittees are required to notify USACE within 120 days of completing implementation of the waters of the U.S. restoration plan. Notifications must include, but not limited to, the following:

- a) a detailed description of restored waters of the U.S.;
- b) a map showing the configuration of the restored waters of the U.S., if different than what is contained in the approved restoration plan;
- c) discussion of how the restoration has been accomplished;
- d) a comparison of the post-construction conditions of the restoration area to the pre-construction conditions of the area;

- e) details of the restoration of waters of the U.S., including wetlands, after drilling termination, addressing hydrology, soils, and vegetation;
- f) a discussion about whether disturbed areas, such as borrow areas, road embankments, stream banks, road crossings, and temporary impact areas are revegetating adequately and not suffering erosion damage;
- g) photographs, as appropriate, to illustrate the information presented.

The permittee shall submit annual monitoring reports of the restored area for a period of 5 years or until the performance standards for the restoration plan have been met, whichever is shorter. Restoration of temporarily impacted areas are not subject to protective measures (e.g., conservation easements).

APPENDIX E

POTENTIAL AUTHORIZATIONS FROM OTHER AGENCIES

This RGP does not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law. The permittee is responsible for obtaining any additional federal, state, or local permits or approvals that may be required, including, but not limited to:

1. Any work that would be conducted on lands or in waters under the jurisdiction of any municipal, state, or federal entity, including special purpose districts, such as river authorities, created under the state constitution, may require a permit, lease or other enabling instrument from that agency.
2. Projects involving government property at USACE reservoirs require submission of detailed design information to the reservoir manager and USACE approval for the proposed activity to occur on government property, including a real estate consent to easement.
3. Activities within a 100-year floodplain may require a floodplain development permit from the local floodplain administrator or, in Texas, the TCEQ Flood Management Unit, (512) 239-4771 (see Appendix A, general condition 32). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
4. Activities outside the USACE action area that may affect a federally-listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service (FWS) to prevent a violation of the Endangered Species Act under Section 9. For further information, contact:

USFWS - Arlington: 2005 NE Green Oaks Blvd., Suite 140, Arlington, Texas 76006, (817) 277-1100, <http://www.fws.gov/southwest/es/arlingtontexas/> ;

USFWS -Austin: Compass Bank Building, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512) 490-0057, <http://www.fws.gov/southwest/es/austintexas/>;

USFWS - Corpus Christi: TAMU-CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 994-9005, <http://www.fws.gov/southwest/es/corpuschristitexas/>;

USFWS-Houston: 17629 El Camino Real, Suite 211, Houston, Texas 77058, (281) 286-8282, <http://www.fws.gov/southwest/clearlakees/> ;

USFWS - Lafayette: 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506, (337) 291-3100, <http://www.fws.gov/lafayette> .

5. When streambed materials such as sand, shell, gravel and marl would be disturbed or removed from state-navigable waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department (TPWD), 4200 Smith School Road, Austin, Texas 78744. All activities occurring on lands owned or managed by the TPWD require a signed agreement from that agency prior to commencing operations.
6. All activities in Texas located on lands under the jurisdiction of the Texas General Land Office (GLO), 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds, state-owned uplands, or coastal state-owned lands in Texas may require the issuance of a lease or easement from the GLO.
7. In accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure associated with oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation by the U. S.

Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas, Texas 75202, and the Railroad Commission of Texas, Oil and Gas Division, 1701 North Congress Avenue, P. O. Box 12967, Austin, Texas 78711-2967, respectively. In accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure associated with activities other than oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation under the terms of the Texas Pollutant Discharge Elimination System (TPDES) program through the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.

8. Storm water runoff from construction activities other than those associated with oil and gas exploration, development, and production that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in a disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: <http://www.tceq.state.tx.us/permitting/waterperm/wwperm/construct.html> or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4433. Section 323 of the Energy Policy Act of 2005 clarified that under Section 402(1)(2) of the Clean Water Act most stormwater discharges from construction activities associated with oil and gas field operations are exempt from the requirement to obtain an NPDES permit for stormwater discharges. Section 323 also prohibited EPA from requiring – or requiring a state to require – an NPDES permit for stormwater discharges from construction activity associated with oil and gas field operations, except in situations when the construction-related activity results in the discharge of a hazardous substance or oil in “reportable” quantities, or in situations when the discharge of a pollutant other than sediment contributes to a violation of an applicable water quality standard.

9. The use of scrap tires for bank stabilization and erosion control requires notification of the TCEQ Waste Tire Recycling Program, P. O. Box 13087, Austin, Texas 78711-3087.

10. The construction, operation, maintenance, or connection of facilities at the borders of the U.S. are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Activities that would require such authorization and would affect an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 North Mesa Street, El Paso, Texas 79902.

11. Activities that may affect state-listed rare, threatened, or endangered species. For a rare, threatened, and endangered species review in the State of Texas, submit projects to: Wildlife Habitat Assessment, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744.

12. Activities in the recharge zone of the Edwards Aquifer and activities in the contributing zone of the Edwards Aquifer that disturb more than 5 acres of land under Edwards Aquifer rules require a Water Pollution Abatement Plan. For further information contact the Edwards Aquifer Authority, 1615 North St. Mary’s Street, San Antonio, Texas 78215.

APPENDIX F
(Revised 7/7/2015 – Bolded Language for Toledo Bend)
PRE-CONSTRUCTION NOTIFICATION (PCN) REQUIREMENT
AND REVIEW PROCEDURES

For activities requiring a PCN, the prospective permittee shall not begin any activity requiring preconstruction notification until notified in writing by the USACE that the activity is authorized under this RGP with any special conditions imposed by the USACE. The USACE will respond as promptly as practicable to all PCNs. **For activities not requiring a PCN**, the prospective permittee may commence construction when it can ensure that all terms and conditions of this RGP can be met. For all submittals, the USACE will notify the permit applicant whether the proposed project meets or does not meet the terms and conditions of this RGP. The USACE will respond as promptly as practicable to all PCNs.

Prior to construction, a prospective permittee must notify the USACE in accordance with the requirements of the PCN Submittal section below if the discharge or work would:

1. involves a Section 10 water (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**);
2. cause the loss of greater than 1/10 acre of waters of the U.S. "Loss of waters of the U.S." is defined as waters of the U.S. that are permanently adversely affected by filling, flooding, excavation, or drainage as a result of the regulated activity;
3. result in the loss of wetlands or littoral zone;
4. result in temporary adverse effects to forested wetlands (e.g., clearing of trees in forested wetland);
5. have the potential to affect, or be in the vicinity of, or be in designated critical habitat of, a species listed, or proposed for listing, as threatened or endangered in the Endangered Species Act (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**);
6. have the potential to affect any historic property listed, or eligible for listing in, the National Register of Historic Places (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**).
7. occur within any of the following habitat types or specific areas:
 - a) wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (*Sarracenia spp.*), sundews (*Drosera spp.*), and sphagnum moss (*Sphagnum spp.*);

- b) baldcypress-tupelo swamps: wetlands comprised predominantly of baldcypress trees (*Taxodium distichum*), and water tupelo trees (*Nyssa aquatica*), that are occasionally or regularly flooded by fresh water. Common associates include red maple (*Acer rubrum*), swamp privet (*Forestiera acuminata*), green ash (*Fraxinus pennsylvanica*) and water elm (*Planera aquatica*). Associated herbaceous species include lizard's tail (*Saururus cernuus*), water mermaid weed (*Proserpinaca spp.*), buttonbush (*Cephalanthus occidentalis*) and smartweed (*Polygonum spp.*). (Eyre, F. H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Washington, D.C. 20014. Library of Congress Catalog Card No. 80-54185);
- c) the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention;
- d) the Comal River, the San Marcos River, the Pecos River, the Canadian River, and Lake Casa Blanca; or
- e) critical habitat for the Houston toad (*Bufo houstonensis*); Devils River minnow (*Dionda diabolis*) – the Devils River and San Felipe Creek Watersheds in Val Verde County, Texas; and or Leon Springs pupfish (*Cyprinodon bovinus*) – Leon Creek from the Diamond Y Spring to a point one mile northeast of the Texas Highway 18 crossing approximately 10 miles north of Fort Stockton, in Pecos County.
8. for any regulated activity where the applicant is proposing work that would result in the modification or alteration of any completed Corps of Engineer Federal project(s) that are either locally or federally maintained and for work that would occur within the conservation pool or flowage easement of any Corps of Engineers lake project. PCN's cannot be deemed complete until such time as the Corps has made a determination relative to 33 USC Section 408, 33 CFR Part 208, Section 208.10.

PCN SUBMITTALS

PCNs submitted to the USACE for verification of authorization under this RGP must be in writing and include a description of the project, proposed construction schedule, and the name, address and telephone number of a point of contact who can be reached during normal business hours. The information may be assembled and submitted in a format convenient to the applicant. All pages, including maps, drawings, figures, sheets, etc., must be on 8 ½ by 11-inch paper or fold easily to 8 ½ x 11-inch dimensions. The detail of the information should be commensurate with the size and environmental impact of the project. The description of the project must include at least the following information:

1. The purpose of the project.
2. A delineation, determination, and characterization of waters of the U.S., including wetlands, in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment, including a distinction between loss and/or temporary

impact/adverse effect to waters of the U.S. Delineations of wetlands must be conducted using the “Corps of Engineers Wetland Delineation Manual”, USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at

<http://www.swf.usace.army.mil/pubdata/enviro/regulatory/jurisdiction/wlman87.pdf>), including all supplemental guidance. The supplemental guidance is included in the on-line version and may also be obtained from your USACE district office. Determinations of waters of the U.S. must be conducted using regulations and guidance applicable at the time of the preconstruction notification (currently “U. S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook,” dated June 5, 2007). Include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.

3. A vicinity map, or maps, on copies of 7.5-minute U. S. Geological Survey (USGS) quadrangle maps, county maps, scaled aerial photographs, or other suitable maps, clearly showing the location of all temporary and permanent elements of the project including coffer dam(s), equipment ramp(s), borrow pit(s), disposal area(s), staging area(s), etc. The map(s) must show the project area in relation to nearby access roads, highways and other roads, and other pertinent features. A ground survey is not required to obtain this map information. Identify all base maps, e.g. Fort Worth, Texas 7.5-minute USGS quadrangle, etc.

4. Plan, profile, and cross-section views of all work (fills, excavations, structures, etc.), both permanent and temporary, in, or adjacent to, waters of the U.S., including wetlands, and a description of the proposed activities and structures including coffer dam(s), equipment ramp(s), borrow pit(s), disposal area(s), staging area(s), and other project related areas within the USACE permit area(s). This is to include the acreage of wetlands and/or linear feet of stream to be adversely impacted by all project features. The permit area(s) includes all waters of the U.S. affected by activities associated with the project, as well as any additional area of non-waters of the U.S. in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the U.S. The USACE permit area(s) includes associated coffer dams, equipment ramps, borrow pits, disposal areas, staging areas, etc. in most cases where they are proposed associated with the development of water-related recreational features.

5. The volume of material proposed to be discharged into, and excavated from, waters of the U.S. and the proposed type and source of the material.

6. Documentation that the amount of area impacted is the minimum necessary to accomplish the project and, in cases where the activity would result in a change to pre-construction elevations and/or contours and/or drainage patterns, a description of the anticipated impacts of the changes, the reason(s) that the changes are necessary, and documentation that the changes would not result in more than minimal adverse impact on the aquatic environment.

7. A detailed mitigation plan presenting appropriate and practicable measures planned: a) to avoid and minimize adverse impacts to the aquatic environment, particularly associated with temporary elements of the proposed project, and b) to compensate for the remaining unavoidable adverse impacts to the aquatic environment. If compensatory mitigation for unavoidable adverse impacts to the aquatic environment is not proposed, the application must include documentation

that the proposed work would have minimal adverse impact on the aquatic environment without compensatory mitigation, why compensatory mitigation would be inappropriate and/or impracticable, and that compensatory mitigation should not be required. The mitigation plan must include a description of proposed appropriate and practicable actions that would restore, enhance, protect, and/or replace the functions and values of the aquatic environment unavoidably lost in the permit area because of the proposed work. See Appendix D for more information.

8. A restoration plan for any temporary impacts to waters of the U.S. This plan may be included as part of the detailed mitigation plan (See Appendix D) but need to be notated as restoration.

9. An assessment documenting whether any species listed as endangered or threatened under the Endangered Species Act might be affected by, or found in the vicinity of, the USACE permit area(s) for the proposed project. Coordination with the FWS concerning the potential impact of the entire project on endangered and threatened species is encouraged. (See contact information, including website addresses, for FWS offices in Appendix E, "POTENTIAL AUTHORIZATION FROM OTHER AGENCIES" section. (Also see Appendix A, General Condition 16).

10. An assessment documenting whether any cultural resources, particularly those historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), would be affected by, or are in the vicinity of, the USACE permit area(s) for the proposed project (See Appendix A, General Condition 12).

11. The applicant should include any other relevant information, including information on hydrology and hydraulics, as needed.

Early coordination with the USACE, well before a final PCN is submitted, is beneficial in many cases. Address PCNs and inquiries concerning proposed activities to the appropriate district office (see Appendix B for boundaries of district offices):

Fort Worth District: Regulatory Division, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-PER-R, P.O. Box 17300, Fort Worth, TX 76102-0300, telephone: (817) 886-1731, website: <http://www.swf.usace.army.mil/missions/regulatory.aspx>

Albuquerque District: Las Cruces Regulatory Field Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESP-ALBU-LC, 505 S. Main Street, Suite 142, Las Cruces, NM, 88001, telephone: (575) 556-9939, website: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

EVALUATION AND VERIFICATION PROCEDURES FOR PCNs

For all discharges within the habitat types or areas listed in this Appendix, Section 7 a-e above, the USACE will coordinate with the resource agencies as specified in the Nationwide Permit (NWP) general condition on notification (currently General Condition 31(d), Federal Register, Vol. 77, No. 34, Tuesday February 21, 2012).

For activities in the State of Louisiana, the USACE will provide a copy of the PCN to the USFWS, Lafayette Ecological Services Office, and the Louisiana Department of Wildlife (LDWF) and Fisheries P. O. Box 98000, Baton Rouge, Louisiana 70898-9000, (225) 765-2800, Permit Coordinator for a 10-calendar day review. The review period will commence on the date that the USFWS-Lafayette and LDWF receive the PCN.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 14, 2015

Mr. Stephen Brooks, Division Chief
U.S. Army Corps of Engineers
Regulatory Division CESWF-EV-R
P.O. Box 17300
Fort Worth, Texas 76102-0300

Attention: Mr. Chandler Peter

Re: USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and
SWG-2014-00821

Dear Mr. Brooks:

This letter is in response to the Statement of Findings (SOF) received January 5, 2015 for the U.S. Army Corps of Engineers proposed reissuance of Regional General Permit (RGP) 8 for the construction, operation, modification, and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging. The RGP is applicable to all waters of the U.S. and navigable waters within the Fort Worth District's area of responsibility (AOR) within the state of Texas, the Albuquerque District's AOR within the state of Texas, and the Galveston District's AOR within the limits of Toledo Bend Reservoir.

The Texas Commission on Environmental Quality (TCEQ) has reviewed the public notice and related application information along with the SOF. On behalf of the Executive Director and based on our evaluation of the information contained in these documents, the TCEQ certifies that there is reasonable assurance that the project will be conducted in a way that will not violate water quality standards. General information regarding this water quality certification, including standard provisions of the certification, is included as an attachment to this letter.

RGP 8 authorizes the construction, operation, modification, and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging. The RGP provides authorization for recurring work that causes no more than minimal individual and cumulative adverse environmental impacts.

The RGP contains limitations and conditions to offset impacts to waters of the U.S., and all impacts to waters of the U.S. in excess of 0.1 acres must be mitigated through the purchase of mitigation bank credits, in-lieu fee, or permittee-responsible mitigation actions.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

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printed on recycled paper using vegetable-based ink

Mr. Chandler Peter
U.S. Army Corps of Engineers
USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821
Page 2
January 14, 2015

No review of property rights, location of property lines, nor the distinction between public and private ownership has been made, and this certification may not be used in any way with regard to questions of ownership.

If you require additional information or further assistance, please contact Mr. Brad Caston, Water Quality Assessment Section, Water Quality Division (MC-150), at (512) 239-4711 or by email at Charles.Caston@tceq.texas.gov.

Sincerely,


David W. Galindo
Water Quality Division Director
Texas Commission on Environmental Quality

*Same Zymar - Ponzebinek, PE
jul*

DWG/CBC/tc

Attachment

cc: Mr. Dwayne Johnson, Regulatory Division, CESWG-RD-P, U.S. Army Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553-1229

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

Page 1 of 3

WORK DESCRIPTION: As described in the public notice dated October 14, 2014, and the Environmental Assessment and Statement of Findings received January 5, 2015.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the January 5, 2015, Environmental Assessment and Statement of Findings and shall be concurrent with the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. If this application is a modification of an original permit or any modification thereof for which a special condition was cited by the Commission or a predecessor agency, such conditions shall remain valid. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the COE and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a COE permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ by calling the State of Texas Environmental Hotline at 1-800-832-8224.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

Page 2 of 3

appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.

5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.
7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.
8. Dredged Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TCEQ shall be contacted by calling the State of Texas Environmental Hotline at 1-800-832-8224. Dredging activities shall not be resumed until authorized by the Commission.
10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Noncontaminated storm water from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at:

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

Page 3 of 3

http://www.tceq.texas.gov/permitting/stormwater/wq_construction.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4671.

12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, ripped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters.
13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.
14. Where the control of weeds, insects, and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.
15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.
16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.
18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

November 21, 2014

Mr. Chandler Peter
Regulatory Branch, CESWF-DE-R
U.S. Army Corps of Engineers
Post Office Box 17300
Fort Worth, Texas 76102

AI No.: 101926
Activity No.: CER20140001

RE: Water Quality Certification WQC 141118-01
Fort Worth District Permit CESWF-14-RGP-8
Galveston District Permit SWG-2014-00821
Sabine, Desoto and Vernon Parishes

Dear Mr. Peter:

The Louisiana Department of Environmental Quality, Water Permits Division (LDEQ), has reviewed the public notice and permit to conduct activities associated with the construction, operation, modification and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging located in the Toledo Bend Reservoir in Sabine, Desoto and Vernon Parishes.

The information provided in the public notice and permit has been reviewed in terms of compliance with State Water Quality Standards, the approved Water Quality Management Plan and applicable state water laws, rules and regulations. LDEQ has determined that the requirements for a Water Quality Certification have been met. LDEQ concludes placement of dredged material will not violate water quality standards as provided for in LAC 33:IX.Chapter 11. Therefore, LDEQ hereby issues the U.S. Army Corps of Engineers Water Quality Certification, WQC 141118-01.

Should you have any questions concerning any part of this certification, please contact Elizabeth Johnson at (225) 219-3225, or by email at elizabeth.johnson@la.gov. To ensure all correspondence regarding this certification is properly filed into the Department's Electronic Document Management System, please reference your Agency Interest (AI) number 101926 on all future correspondence to this Department.

Sincerely,

A handwritten signature in black ink that reads "Scott Guilliams".

Scott Guilliams
Administrator
Water Permits Division

c: IO-W

REGIONAL GENERAL PERMIT (RGP) - 8

BOAT RAMPS AND MINOR FACILITIES

AUTHORIZED ACTIVITIES, LIMITATIONS AND CRITERIA

Work authorized by this Regional General Permit 8 is limited to the discharge of dredged and/or fill material into waters of the United States (U.S.), including wetlands, and work in, or affecting navigable waters of the U.S., associated with the construction, operation, modification and/or maintenance of boat ramps, water-related minor structures and facilities, and associated dredging. Expansion of existing facilities is included provided they were not previously approved under this general permit and exceed overall limits. Activities that may be authorized by this RGP include, but are not limited to:

SCOPE OF WORK

1. **Boat Ramps:** Work authorized for boat ramps by this RGP is limited to the construction and maintenance of hard surfaced inclined plane ramps for the purpose of launching boats for public, private, and commercial use.

Limitations associated with Boat Ramps include:

- No more than a total of 500 cubic yards of dredge and/or fill material may be placed below the ordinary high water mark in the construction of a boat ramp.
- Dredge material is restricted to native soils obtained at the work site. Fill material may be imported from an upland source and consist of dirt, concrete, sand, gravel, rock, and/or other coarse aggregate.
- Use of asphalt below the ordinary high water mark is not authorized.
- This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.

2. **Minor Structures and Facilities:** Work authorized for minor structures and facilities by this RGP is limited to the construction and maintenance of boat docks, boathouses, fishing piers, walkways, boat stalls, boat slips, ski jumps, swimming platforms, mooring devices and similar features for public, private, and commercial use. Appurtenant structures to docks, piers, walkways and boat stalls, such as bulkheads and stairways, are also authorized by this RGP.

Limitations for Minor Structures and Facilities include:

- Boat docks, boathouses, fishing piers, walkways, boat stalls, boat slips, ski jumps, swimming platforms, and mooring devices must be pile-supported or floating structures.
- Ski jumps, swimming platforms and similar features must be marked so as to be clearly visible to boat traffic, including reflective markers for night visibility. They must also be constructed and anchored to prevent their dislocation or submergence by wave or wind action as well as water level fluctuations.

- Navigable clearance must be maintained around the jump or platform.
 - Structures built in waterways shall not unreasonably interfere with navigation or disrupt visibility in a channel.
 - No structure can extend into the waterway more than 1/5 of the total width of the waterway or exceed 300 feet, whichever is less, measured perpendicular to the bank. For Toledo Bend Reservoir, Lake Tawakoni and Lake Fork, in conjunction with Shoreline Management Plans, structures in coves cannot exceed 1/3 the cove width, or 300 feet, whichever is less measured perpendicular to the bank.
 - This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.
3. **Dredging:** Work authorized for dredging associated with the construction, operation, modification or maintenance of boat ramps, minor structures and facilities, as well as boat access, is authorized by this RGP. Maintenance of previously dredged areas to pre-existing lines and grades is also included.

Limitations associated with Dredging include:

- Dredging for boat slips and/or stalls may not exceed 50 feet in width including top of the side slope.
 - Dredging for boat lanes to access boat slips, docks, and other minor structures may not exceed 20 feet in width including top of the side slope and may not exceed 300 feet in length. Lanes must be located to avoid and minimize impacts to wetlands.
 - Dredging for boat lanes to access boat ramps may not exceed 50 feet in width including top of the side slope and may not exceed 300 feet in length.
 - No more than 500 cubic yards may be dredged in open waters (including rivers) or wetlands in the wet.
 - No more than 1500 cubic yards may be dredged in reservoirs and lakes below the ordinary high water mark when the area is dry due to water variation/fluctuation.
 - Dredge material excavated with actions authorized under this RGP may be discharged below the ordinary high water mark in reservoirs and lakes provided it is not within wetlands or a shallow littoral zone (OHW to a depth of 3 feet).
 - Dredge material discharged below the ordinary high water mark must be placed in such a manner that it does not result in land reclamation and/or interfere with navigation in navigable waterways.
 - Dredged areas must result in positive and connected drainage to the main waterbody to avoid trapping of aquatic species but also must not be designed to eliminate waters of the U.S.
 - This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.
4. **Temporary Fills and Structures:** Temporary fills, including features such as cofferdams, platforms, and structures associated with constructing features authorized by this permit are included in this RGP. Material may be temporarily placed for construction into waters of the United States for up to 90 days provided that the material is placed in a manner that will not allow it to be dispersed by currents or other forces.

Limitations associated with Temporary Fills and Structures include:

- Permittees shall remove all excess material, including dredge material not to be left in the water body, and temporary fill and structures placed in waters of the United States, including wetlands, to upland areas and stabilize all exposed slopes and stream banks immediately upon completion of construction.
- Areas affected by temporary fill and/or structures shall be returned to preconstruction conditions or better, including revegetation with native vegetation.
- All material removed must be placed at least 50 feet from any water of the United States, including wetlands, and adequately contained to prevent the return to any water of the United States, including wetlands.
- This RGP does not authorize construction storage and staging areas in waters of the US for undertaking authorized work within waters of the United States.

CRITERIA APPLICABLE TO ALL ACTIONS

1. The discharges and work shall not cause the loss of greater than one (1) acre of waters of the United States for each single and complete project. "Loss of waters of the United States" is defined as "waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity."
2. Adverse impacts to waters of the United States, including wetlands, shall be avoided and minimized to the extent practicable.
3. All fills and structures authorized by this RGP must comply with the General Conditions contained in Appendix A.
4. Compensatory mitigation shall be provided for unavoidable loss and impacts/adverse effects to waters of the United States, including wetlands, when in excess of 0.1 acres and appropriate and practicable. Conversion of wetlands to open water due to dredging shall be mitigated. See Appendix D for details concerning compensatory mitigation and restoration plans.
5. Preconstruction Notification: Prior to construction, a prospective permittee must notify the USACE of the proposed work, in accordance with the requirements of the "Preconstruction Notification" as detailed in Appendix F.

It is the permit applicant's responsibility to ensure that all authorized structures and activities continue to meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this RGP may be considered for authorization by individual permit or other permits as applicable.

This RGP shall become effective on the date of the signature of the District Engineers, or their authorized representative(s), and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Verifications by the USACE that an activity is authorized by this RGP are valid until the expiration date of this RGP unless this RGP is modified, revoked, or extended before that date. Activities that have been verified by the USACE as authorized under this RGP, and have commenced (i.e. are under construction, or are under contract to commence), by the verification expiration date, will remain authorized provided the activity is completed within twelve months of the date of expiration, modification, or revocation of the RGP, or by another date determined by the USACE for the specific case, whichever is later, unless discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

FOR THE DISTRICT ENGINEERS:

_____ Signed _____ 1/27/15 _____
Date

W. Neil Craig III, P.E.
Lieutenant Colonel, U.S. Army
Acting District Commander
Fort Worth District

Patrick J. Dagon
Lieutenant Colonel, U.S. Army
District Commander
Albuquerque District

Attachments:

- Appendix A – General Conditions
- Appendix B – Corps Districts in Texas
- Appendix C – Navigable Waters of the U.S. in Fort Worth and Albuquerque Districts RGP 8 is Applicable To
- Appendix D – Compensatory Mitigation and Restoration Plans
- Appendix E – Potential Authorizations from Other Agencies
- Appendix F – Preconstruction Notification Requirement and Review Procedures
- Appendix G – Water Quality Certifications from Texas Commission on Environmental Quality and Louisiana Department of Environmental Protection

APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT CESWF-14-RGP-8

1. In verifying authorization under this regional general permit (RGP), the Department of the Army has relied in part on the information provided by the permittee. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.
2. Structures and activities authorized by this RGP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. This RGP is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose: a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. This RGP does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. This RGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.
4. This RGP may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that such action would be in the public interest.
5. Modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.
6. This RGP does not authorize interference with any existing or proposed Federal project, and does not entitle the permittee to compensation for damage or injury to the structures or activities authorized herein that may result from existing or future operations undertaken by the United States in the public interest.
7. No attempt shall be made by permittees to prevent the full and free public use of any navigable water of the United States.
8. Permittees shall not cause any unreasonable interference with navigation.
9. Permittees shall conduct the activities in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse

impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly hard-mast-producing trees such as oaks and hickories. Permittees shall seek to maintain existing buffers around waters of the United States, including primarily streams and wetlands and create and/or expand buffers around waters of the United States when practicable.

10. All fills and structures above the existing ground elevation in waters of the United States shall minimize adverse impacts to local hydrology. Projects shall not promote the drainage of waters of the United States or cause unnecessary impoundment of water.

11. Permittees shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the activity is being performed in accordance with the terms and conditions of this RGP.

12. Permittees must evaluate the effect that the proposed work would have on historic and prehistoric properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to the initiation of work. If a known historic property would be affected, the permittee shall notify the USACE and shall not conduct any work in the permit area that would affect the property until the requirements of 33 CFR Part 325, Appendix C, have been satisfied. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately notify the USACE and avoid further impact to the site until the USACE has verified that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

13. Materials to be placed into waters of the United States are restricted to clean native soils and concrete, sand, gravel, rock, other coarse aggregate, and other suitable material. All material used shall be free of toxic pollutants in toxic quantities.

14. Permittees shall coordinate all construction activities in federally maintained channels and/or waterways for required setback distances with the USACE prior to application for a permit.

15. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

16. Activities that are likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that are likely to destroy or adversely modify the critical habitat of such species are not authorized. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

17. Permittees shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

18. The permittee shall implement best management practices to reduce the risk of transferring invasive plant and animal species to or from project sites. Information concerning state specific lists and threats can be found at: <http://www.invasivespeciesinfo.gov/unitedstates/tx.shtml>. Best

management practices can be found at:

<http://www.invasivespeciesinfo.gov/toolkit/prevention.shtml>. Known zebra mussel waters can be found at: <http://nas.er.usgs.gov/queries/zmbyst.asp>.

19. Permittees shall not permanently restrict or impede the passage of normal or expected high flows unless the primary purpose of the activity is to temporarily impound water.

20. Permittees shall properly maintain all structures and fills to ensure public safety.

21. Permittees shall insure that projects have no more than minimal adverse impacts, including on public water supply intakes.

22. Stream realignment is not authorized by this RGP.

23. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

24. All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during and after construction until all exposed soil is permanently stabilized. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be implemented. All damage resulting from erosion and/or sedimentation shall be repaired.

25. Permittees are not authorized to discharge dredged or fill material into waters of the United States for purposes of disposal into, or reclamation of, an aquatic area, such as a wetland.

26. Permittees shall not use a jet barge or similar equipment for excavation.

27. Permittees shall mark structures or fills in navigable waters, when appropriate, so that their presence will be known to boaters.

28. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

29. Permittees are responsible for compliance with all terms and conditions of this RGP for all activities within the Department of the Army permit area of a project authorized by this RGP, including those taken on behalf of the permittee by other entities such as contractors and subcontractors. Permittees assume all liabilities associated with fills and impacts that are incurred by individuals and/or organizations working on contracts with the permittee. Before beginning work or directing a contractor to perform such work, permittees shall ensure that all parties read, understand and comply with the terms and conditions of this permit.

30. Permittees shall conduct dredging and excavation activities with land-based equipment rather than from the water body whenever practicable.

31. Permittees shall not construct facilities designed or used for human habitation nor those that include sewage or fuel handling facilities.

32. Permittees must comply with Federal Emergency Management Agency (FEMA), or FEMA-approved local floodplain development requirements in the placement of any permanent above-grade fills in waters of the United States, including wetlands, within the 100-year floodplain. The 100-year floodplain will be identified through FEMA's Flood Insurance Rate Maps or FEMA-approved local floodplain maps. A permanent above-grade fill is a discharge of dredged or fill material into waters of the United States, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land.

33. For all discharges proposed for authorization in Dallas, Denton, and Tarrant Counties that are within the study area of the "Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries" (May 1986), permittees shall meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements. A copy of these guidelines is available upon request from the Fort Worth District and at the District website www.swf.usace.army.mil/regulatory/.

34. To satisfy Texas Commission on Environmental Quality (TCEQ) water quality certification requirements for all projects to which Section 401 water quality certification by the TCEQ applies, the permittee must use at least one best management practice (BMP) from each of the first three categories of on-site water quality management and comply with item d. concerning contaminated dredged material below to satisfy TCEQ water quality certification requirements. Descriptions of the BMPs may be obtained from the TCEQ Standards Implementation Team by calling (512) 239-4671, by calling one of the Corps district regulatory offices identified in the "PRECONSTRUCTION NOTIFICATIONS" section of this RGP, or from the USACE, Fort Worth District, web site at <http://www.swf.usace.army.mil/regulatory/>. The TCEQ-required BMPs are as follows:

a. Erosion Control

Disturbed areas must be stabilized to prevent the introduction of sediment to adjacent wetlands or water bodies during wet weather conditions (erosion). *At least one* of the following best management practices (BMPs) must be maintained and remain in place until the area has been stabilized.

- Temporary Vegetation
- Blankets/Matting
- Mulch
- Sod

b. Post-Construction TSS Control

After construction has been completed and the site is stabilized, total suspended solids (TSS) loadings shall be controlled by *at least one* of the following BMPs.

- Retention/Irrigation

- Extended Detention Basin
- Vegetative Filter Strips
- Constructed Wetlands
- Wet Basins

c. Sedimentation Control

The project area must be isolated from adjacent wetlands and water bodies by the use of BMPs to confine sediment. *At least one* of the following BMPs must be maintained and remain in place until project completion.

- Sand Bag Berm
- Silt Fence
- Triangular Filter Dike
- Rock Berm
- Hay Bale Dike

Dredged material shall be placed in such a manner that prevents sediment runoff into water in the state, including wetlands. Water bodies can be isolated by the use of one or more of the required BMPs identified for sedimentation control. These BMPs must be maintained and remain in place until the dredged material is stabilized.

Hydraulically dredged material shall be disposed of in contained disposal areas. Effluent from contained disposal areas shall not exceed a TSS concentration of 300 mg/l.

d. Contaminated Dredged Material

If contaminated dredge material that was not anticipated or provided for in the permit application is encountered during dredging, operations shall cease immediately. Pursuant to 26.039 (b) of the Texas Water Code, the individual operating or responsible for the dredging operations shall notify the commission's emergency response team at (512) 463-7727 as soon as possible, and not later than 24 hours after the discovery of the material. The applicant shall also notify the Corps that activities have been temporarily halted. Contaminated dredge material shall be remediated or disposed of in accordance with TCEQ rules. Dredging activities shall not be resumed until authorized in writing by the Commission.

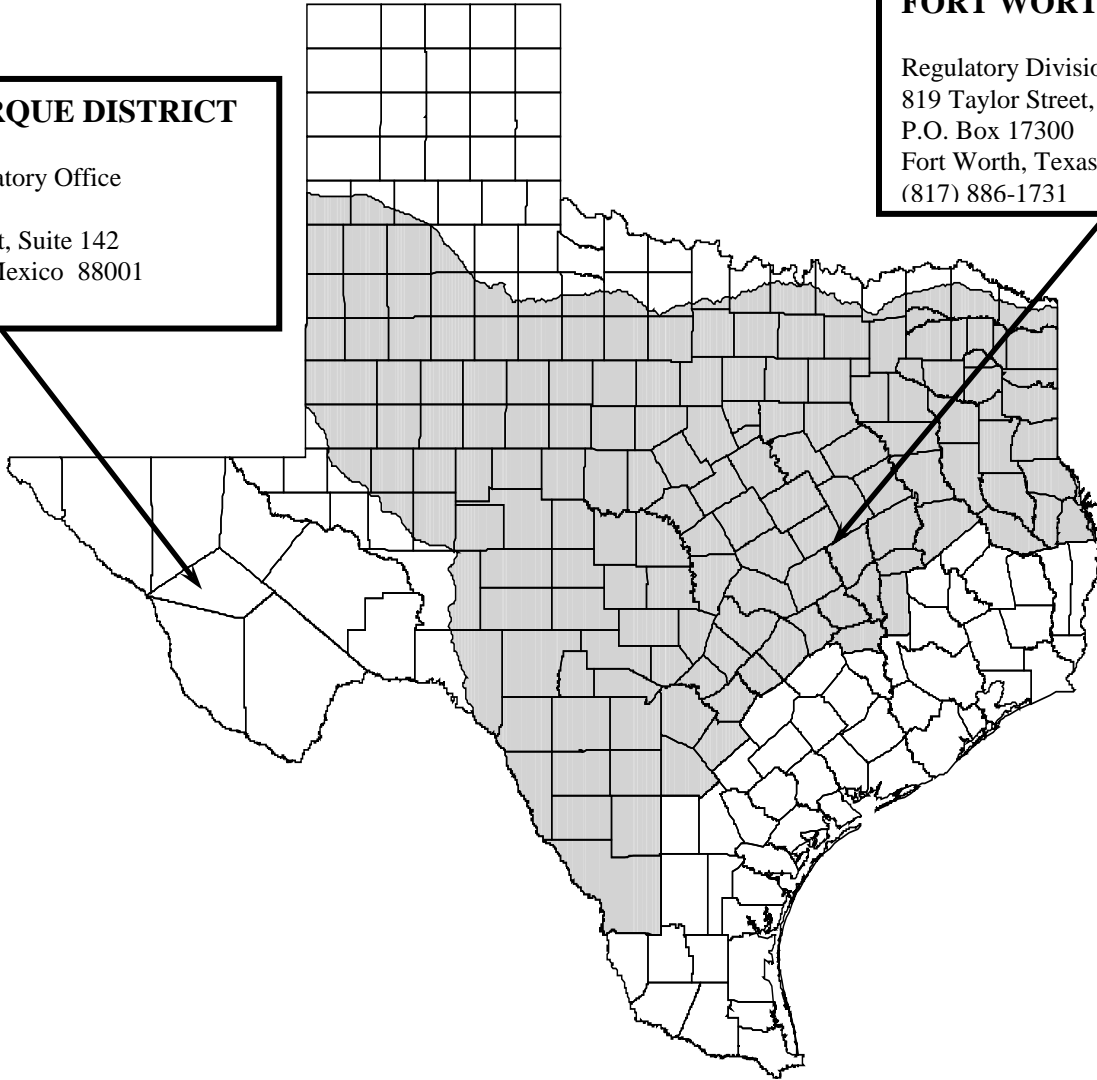
Contaminated dredge material is defined as dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants which include, but are not limited to solid waste, hazardous waste and hazardous waste constituent as those terms are defined by 30 TAC Chapter 335, Pollutants as defined by Texas Water Code 26.001 and Hazardous Substances as defined in the Texas Health and Safety Code, 361.003.

APPENDIX B

**CORPS DISTRICTS IN TEXAS
WHERE RGP 8 IS APPLICABLE**

ALBUQUERQUE DISTRICT
Las Cruces Regulatory Office
CESPA-RD-LC
505 S. Main Street, Suite 142
La Cruces, New Mexico 88001
(575) 556-9939

FORT WORTH DISTRICT
Regulatory Division, CESWF-DE-R
819 Taylor Street, Room 3A37
P.O. Box 17300
Fort Worth, Texas 76102-0300
(817) 886-1731



December, 2014

APPENDIX C

NAVIGABLE WATERS OF THE U.S.

For purposes of Section 10 of the Rivers and Harbors Act of 1899, the following sections of rivers, including their lakes and other impoundments, are considered to be navigable waters of the U.S. that fall within the jurisdiction of the Fort Worth and Albuquerque Districts of the U.S. Army Corps of Engineers in the states of Texas and Louisiana.

ANGELINA RIVER: From the Sam Rayburn Dam in Jasper County upstream to U. S. Highway 59 in Nacogdoches and Angelina counties and all U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Tyler and Jasper counties, Texas.

BIG CYPRESS BAYOU: From the Texas-Louisiana state line in Marion County, Texas, upstream to Ellison Creek Reservoir in Morris County, Texas.

BRAZOS RIVER: From the point of intersection of Grimes, Washington, and Waller counties upstream to Whitney Dam in Hill and Bosque counties, Texas.

COLORADO RIVER: From the Bastrop-Fayette county line upstream to Longhorn Dam in Travis County, Texas.

NECHES RIVER: U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Jasper and Tyler counties, Texas.

RED RIVER: From Denison Dam on Lake Texoma upstream to Warrens Bend which is 7.25 miles northeast of Marysville, Texas, and from the U. S. Highway 71 bridge north of Texarkana, Texas, to the Oklahoma-Arkansas Border.

RIO GRANDE: From the Zapata-Webb county line upstream to the point of intersection of the Texas-New Mexico state line and Mexico.

SABINE RIVER: From the point of intersection of the Sabine-Vernon parish line in Louisiana with Newton County, Texas upstream to the Sabine River-Big Sandy Creek confluence in Upshur County, Texas.

SULPHUR RIVER: From the Texas-Arkansas state line upstream to Wright Patman Dam in Cass and Bowie counties, Texas.

TRINITY RIVER: From the point of intersection of Houston, Madison, and Walker counties upstream to Riverside Drive in Fort Worth, Tarrant County, Texas.

APPENDIX D
COMPENSATORY MITIGATION
FOR LOSSES OF WATERS OF THE U.S.
AND RESTORATION PLANS FOR TEMPORARY IMPACTS

U.S. Army Corps of Engineers (USACE) evaluation of a project proposal submitted for authorization under this permit includes a determination of whether the applicant has taken sufficient measures to **mitigate** the project's likely adverse effects to the aquatic ecosystem (See USACE Compensatory Mitigation for Losses of Aquatic Resources; Final Rule: Federal Register, Vol. 73, No. 70, Thursday, April 10, 2008, and USACE district website for more detailed information). Applicants should employ the following three-step sequence in mitigating likely adverse project impacts: 1) take appropriate and practicable measures to **avoid** potential adverse impacts to the aquatic ecosystem; 2) employ appropriate and practicable measures to **minimize** unavoidable adverse impacts to the aquatic ecosystem; and 3) undertake appropriate and practicable measures to **compensate** for adverse impacts to the aquatic ecosystem that cannot be reasonably avoided or minimized. **Compensatory mitigation**, then, is the restoration, enhancement, creation, or preservation of wetlands and other waters of the U.S. to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

COMPENSATORY MITIGATION PLANS

Compensatory mitigation should replace those aquatic system functions that would be lost or impacted because of the proposed activity. The appropriate type and amount of compensatory mitigation depends on the nature and extent of the project's likely adverse impact on those functions performed by the aquatic area(s) that would be impacted. These functions include, but are not limited to, flood storage and conveyance; providing habitat for fish, aquatic organisms, and other wildlife, including endangered species; sediment and erosion control; groundwater recharge; nutrient removal; water supply; production of food, fiber, and timber; and recreation. Compensatory mitigation should also be commensurate with the scope and degree of the anticipated impacts and be practicable in terms of cost, existing technology, and logistics, in light of the overall project purpose.

In general, preference is given to the use of mitigation banks due to reduced risk and uncertainty commonly associated with permittee-responsible compensatory mitigation. For Permittee Responsible Mitigation (PRM), in-kind compensatory mitigation is preferable to out-of-kind and should occur as close to the location of the adverse impacts as practicable, generally in the same watershed. However, environmentally preferable out-of-kind and/or off-site compensatory mitigation may be acceptable. In some cases, it is appropriate to provide partial compensation at one location, such as the impact site, with the remainder occurring at an off-site location.

Normally, restoration or enhancement of wetland functions is preferable to wetland creation because the probability of successfully restoring or enhancing wetlands is greater than the probability of successfully creating new wetlands, and restoration and enhancement activities are less likely to impact upland and open water habitats. The preservation of existing wetlands is appropriate as compensatory mitigation only in exceptional situations.

PRM plans submitted with PCNs must include, but not be limited to:

- a) a thorough description of the proposed mitigation area including baseline data documenting ecological condition;
- b) a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures;
- c) plan and cross-section drawings of pertinent work and structures;
- d) a statement explaining how adverse impacts to local hydrology will be minimized; and
- e) a proposal for monitoring the success of the proposed mitigation plan. Generally, monitoring should continue for at least five years after mitigation activities are completed, providing planting survival and ecological success requirements have been achieved.

To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a conservation easement, may be required. More information may be found at 33 CFR 332.4(c)(1-14).

RESTORATION PLANS

Restoration plans submitted with PCNs must include restoration plans for impacts to waters of the U.S. as close to pre-existing conditions as practicable. Restoration plans must include, but not be limited to, the following:

- a) a detailed description of the impacts and areas of waters of the U.S. that will be addressed by the restoration plan;
- b) a map showing the proposed configuration of waters of the U.S., including wetlands, to be restored;
- c) a detailed description of the waters of the U.S. to be restored, including wetlands. This includes the restored hydrology, soils, and vegetation; information such as removal of placed dredged and/or fill material and its disposal; planting of woody vegetation locations and species; channel cross sections, alignment, plan, profile and dimension; soil erosion and sediment control features; other actions or features to achieve restoration.

Notification of Completed Restoration Work: Permittees are required to notify USACE within 120 days of completing implementation of the waters of the U.S. restoration plan. Notifications must include, but not limited to, the following:

- a) a detailed description of restored waters of the U.S.;
- b) a map showing the configuration of the restored waters of the U.S., if different than what is contained in the approved restoration plan;
- c) discussion of how the restoration has been accomplished;
- d) a comparison of the post-construction conditions of the restoration area to the pre-construction conditions of the area;

- e) details of the restoration of waters of the U.S., including wetlands, after drilling termination, addressing hydrology, soils, and vegetation;
- f) a discussion about whether disturbed areas, such as borrow areas, road embankments, stream banks, road crossings, and temporary impact areas are revegetating adequately and not suffering erosion damage;
- g) photographs, as appropriate, to illustrate the information presented.

The permittee shall submit annual monitoring reports of the restored area for a period of 5 years or until the performance standards for the restoration plan have been met, whichever is shorter. Restoration of temporarily impacted areas are not subject to protective measures (e.g., conservation easements).

APPENDIX E

POTENTIAL AUTHORIZATIONS FROM OTHER AGENCIES

This RGP does not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law. The permittee is responsible for obtaining any additional federal, state, or local permits or approvals that may be required, including, but not limited to:

1. Any work that would be conducted on lands or in waters under the jurisdiction of any municipal, state, or federal entity, including special purpose districts, such as river authorities, created under the state constitution, may require a permit, lease or other enabling instrument from that agency.
2. Projects involving government property at USACE reservoirs require submission of detailed design information to the reservoir manager and USACE approval for the proposed activity to occur on government property, including a real estate consent to easement.
3. Activities within a 100-year floodplain may require a floodplain development permit from the local floodplain administrator or, in Texas, the TCEQ Flood Management Unit, (512) 239-4771 (see Appendix A, general condition 32). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
4. Activities outside the USACE action area that may affect a federally-listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service (FWS) to prevent a violation of the Endangered Species Act under Section 9. For further information, contact:

USFWS - Arlington: 2005 NE Green Oaks Blvd., Suite 140, Arlington, Texas 76006, (817) 277-1100, <http://www.fws.gov/southwest/es/arlingtontexas/> ;

USFWS -Austin: Compass Bank Building, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512) 490-0057, <http://www.fws.gov/southwest/es/austintexas/>;

USFWS - Corpus Christi: TAMU-CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 994-9005, <http://www.fws.gov/southwest/es/corpuschristitexas/>;

USFWS-Houston: 17629 El Camino Real, Suite 211, Houston, Texas 77058, (281) 286-8282, <http://www.fws.gov/southwest/clearlakees/> ;

USFWS - Lafayette: 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506, (337) 291-3100, <http://www.fws.gov/lafayette> .

5. When streambed materials such as sand, shell, gravel and marl would be disturbed or removed from state-navigable waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department (TPWD), 4200 Smith School Road, Austin, Texas 78744. All activities occurring on lands owned or managed by the TPWD require a signed agreement from that agency prior to commencing operations.
6. All activities in Texas located on lands under the jurisdiction of the Texas General Land Office (GLO), 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds, state-owned uplands, or coastal state-owned lands in Texas may require the issuance of a lease or easement from the GLO.
7. In accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure associated with oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation by the U. S.

Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas, Texas 75202, and the Railroad Commission of Texas, Oil and Gas Division, 1701 North Congress Avenue, P. O. Box 12967, Austin, Texas 78711-2967, respectively. In accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure associated with activities other than oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation under the terms of the Texas Pollutant Discharge Elimination System (TPDES) program through the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.

8. Storm water runoff from construction activities other than those associated with oil and gas exploration, development, and production that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in a disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: <http://www.tceq.state.tx.us/permitting/waterperm/wwperm/construct.html> or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4433. Section 323 of the Energy Policy Act of 2005 clarified that under Section 402(1)(2) of the Clean Water Act most stormwater discharges from construction activities associated with oil and gas field operations are exempt from the requirement to obtain an NPDES permit for stormwater discharges. Section 323 also prohibited EPA from requiring – or requiring a state to require – an NPDES permit for stormwater discharges from construction activity associated with oil and gas field operations, except in situations when the construction-related activity results in the discharge of a hazardous substance or oil in “reportable” quantities, or in situations when the discharge of a pollutant other than sediment contributes to a violation of an applicable water quality standard.

9. The use of scrap tires for bank stabilization and erosion control requires notification of the TCEQ Waste Tire Recycling Program, P. O. Box 13087, Austin, Texas 78711-3087.

10. The construction, operation, maintenance, or connection of facilities at the borders of the U.S. are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Activities that would require such authorization and would affect an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 North Mesa Street, El Paso, Texas 79902.

11. Activities that may affect state-listed rare, threatened, or endangered species. For a rare, threatened, and endangered species review in the State of Texas, submit projects to: Wildlife Habitat Assessment, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744.

12. Activities in the recharge zone of the Edwards Aquifer and activities in the contributing zone of the Edwards Aquifer that disturb more than 5 acres of land under Edwards Aquifer rules require a Water Pollution Abatement Plan. For further information contact the Edwards Aquifer Authority, 1615 North St. Mary’s Street, San Antonio, Texas 78215.

APPENDIX F
(Revised 7/7/2015 – Bolded Language for Toledo Bend)
PRE-CONSTRUCTION NOTIFICATION (PCN) REQUIREMENT
AND REVIEW PROCEDURES

For activities requiring a PCN, the prospective permittee shall not begin any activity requiring preconstruction notification until notified in writing by the USACE that the activity is authorized under this RGP with any special conditions imposed by the USACE. The USACE will respond as promptly as practicable to all PCNs. **For activities not requiring a PCN**, the prospective permittee may commence construction when it can ensure that all terms and conditions of this RGP can be met. For all submittals, the USACE will notify the permit applicant whether the proposed project meets or does not meet the terms and conditions of this RGP. The USACE will respond as promptly as practicable to all PCNs.

Prior to construction, a prospective permittee must notify the USACE in accordance with the requirements of the PCN Submittal section below if the discharge or work would:

1. involves a Section 10 water (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**);
2. cause the loss of greater than 1/10 acre of waters of the U.S. "Loss of waters of the U.S." is defined as waters of the U.S. that are permanently adversely affected by filling, flooding, excavation, or drainage as a result of the regulated activity;
3. result in the loss of wetlands or littoral zone;
4. result in temporary adverse effects to forested wetlands (e.g., clearing of trees in forested wetland);
5. have the potential to affect, or be in the vicinity of, or be in designated critical habitat of, a species listed, or proposed for listing, as threatened or endangered in the Endangered Species Act (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**);
6. have the potential to affect any historic property listed, or eligible for listing in, the National Register of Historic Places (**except for Toledo Bend Reservoir provided actions are authorized by the Sabine River Authority of Texas and/or Louisiana in accordance with their Shoreline Management Plan**).
7. occur within any of the following habitat types or specific areas:
 - a) wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (*Sarracenia spp.*), sundews (*Drosera spp.*), and sphagnum moss (*Sphagnum spp.*);

- b) baldcypress-tupelo swamps: wetlands comprised predominantly of baldcypress trees (*Taxodium distichum*), and water tupelo trees (*Nyssa aquatica*), that are occasionally or regularly flooded by fresh water. Common associates include red maple (*Acer rubrum*), swamp privet (*Forestiera acuminata*), green ash (*Fraxinus pennsylvanica*) and water elm (*Planera aquatica*). Associated herbaceous species include lizard's tail (*Saururus cernuus*), water mermaid weed (*Proserpinaca spp.*), buttonbush (*Cephalanthus occidentalis*) and smartweed (*Polygonum spp.*). (Eyre, F. H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Washington, D.C. 20014. Library of Congress Catalog Card No. 80-54185);
- c) the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention;
- d) the Comal River, the San Marcos River, the Pecos River, the Canadian River, and Lake Casa Blanca; or
- e) critical habitat for the Houston toad (*Bufo houstonensis*); Devils River minnow (*Dionda diabolis*) – the Devils River and San Felipe Creek Watersheds in Val Verde County, Texas; and or Leon Springs pupfish (*Cyprinodon bovinus*) – Leon Creek from the Diamond Y Spring to a point one mile northeast of the Texas Highway 18 crossing approximately 10 miles north of Fort Stockton, in Pecos County.
8. for any regulated activity where the applicant is proposing work that would result in the modification or alteration of any completed Corps of Engineer Federal project(s) that are either locally or federally maintained and for work that would occur within the conservation pool or flowage easement of any Corps of Engineers lake project. PCN's cannot be deemed complete until such time as the Corps has made a determination relative to 33 USC Section 408, 33 CFR Part 208, Section 208.10.

PCN SUBMITTALS

PCNs submitted to the USACE for verification of authorization under this RGP must be in writing and include a description of the project, proposed construction schedule, and the name, address and telephone number of a point of contact who can be reached during normal business hours. The information may be assembled and submitted in a format convenient to the applicant. All pages, including maps, drawings, figures, sheets, etc., must be on 8 ½ by 11-inch paper or fold easily to 8 ½ x 11-inch dimensions. The detail of the information should be commensurate with the size and environmental impact of the project. The description of the project must include at least the following information:

1. The purpose of the project.
2. A delineation, determination, and characterization of waters of the U.S., including wetlands, in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment, including a distinction between loss and/or temporary

impact/adverse effect to waters of the U.S. Delineations of wetlands must be conducted using the “Corps of Engineers Wetland Delineation Manual”, USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at

<http://www.swf.usace.army.mil/pubdata/enviro/regulatory/jurisdiction/wlman87.pdf>), including all supplemental guidance. The supplemental guidance is included in the on-line version and may also be obtained from your USACE district office. Determinations of waters of the U.S. must be conducted using regulations and guidance applicable at the time of the preconstruction notification (currently “U. S. Army Corps of Engineers Jurisdictional Determination Form Instructional Guidebook,” dated June 5, 2007). Include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.

3. A vicinity map, or maps, on copies of 7.5-minute U. S. Geological Survey (USGS) quadrangle maps, county maps, scaled aerial photographs, or other suitable maps, clearly showing the location of all temporary and permanent elements of the project including coffer dam(s), equipment ramp(s), borrow pit(s), disposal area(s), staging area(s), etc. The map(s) must show the project area in relation to nearby access roads, highways and other roads, and other pertinent features. A ground survey is not required to obtain this map information. Identify all base maps, e.g. Fort Worth, Texas 7.5-minute USGS quadrangle, etc.

4. Plan, profile, and cross-section views of all work (fills, excavations, structures, etc.), both permanent and temporary, in, or adjacent to, waters of the U.S., including wetlands, and a description of the proposed activities and structures including coffer dam(s), equipment ramp(s), borrow pit(s), disposal area(s), staging area(s), and other project related areas within the USACE permit area(s). This is to include the acreage of wetlands and/or linear feet of stream to be adversely impacted by all project features. The permit area(s) includes all waters of the U.S. affected by activities associated with the project, as well as any additional area of non-waters of the U.S. in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the U.S. The USACE permit area(s) includes associated coffer dams, equipment ramps, borrow pits, disposal areas, staging areas, etc. in most cases where they are proposed associated with the development of water-related recreational features.

5. The volume of material proposed to be discharged into, and excavated from, waters of the U.S. and the proposed type and source of the material.

6. Documentation that the amount of area impacted is the minimum necessary to accomplish the project and, in cases where the activity would result in a change to pre-construction elevations and/or contours and/or drainage patterns, a description of the anticipated impacts of the changes, the reason(s) that the changes are necessary, and documentation that the changes would not result in more than minimal adverse impact on the aquatic environment.

7. A detailed mitigation plan presenting appropriate and practicable measures planned: a) to avoid and minimize adverse impacts to the aquatic environment, particularly associated with temporary elements of the proposed project, and b) to compensate for the remaining unavoidable adverse impacts to the aquatic environment. If compensatory mitigation for unavoidable adverse impacts to the aquatic environment is not proposed, the application must include documentation

that the proposed work would have minimal adverse impact on the aquatic environment without compensatory mitigation, why compensatory mitigation would be inappropriate and/or impracticable, and that compensatory mitigation should not be required. The mitigation plan must include a description of proposed appropriate and practicable actions that would restore, enhance, protect, and/or replace the functions and values of the aquatic environment unavoidably lost in the permit area because of the proposed work. See Appendix D for more information.

8. A restoration plan for any temporary impacts to waters of the U.S. This plan may be included as part of the detailed mitigation plan (See Appendix D) but need to be notated as restoration.

9. An assessment documenting whether any species listed as endangered or threatened under the Endangered Species Act might be affected by, or found in the vicinity of, the USACE permit area(s) for the proposed project. Coordination with the FWS concerning the potential impact of the entire project on endangered and threatened species is encouraged. (See contact information, including website addresses, for FWS offices in Appendix E, "POTENTIAL AUTHORIZATION FROM OTHER AGENCIES" section. (Also see Appendix A, General Condition 16).

10. An assessment documenting whether any cultural resources, particularly those historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), would be affected by, or are in the vicinity of, the USACE permit area(s) for the proposed project (See Appendix A, General Condition 12).

11. The applicant should include any other relevant information, including information on hydrology and hydraulics, as needed.

Early coordination with the USACE, well before a final PCN is submitted, is beneficial in many cases. Address PCNs and inquiries concerning proposed activities to the appropriate district office (see Appendix B for boundaries of district offices):

Fort Worth District: Regulatory Division, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-PER-R, P.O. Box 17300, Fort Worth, TX 76102-0300, telephone: (817) 886-1731, website: <http://www.swf.usace.army.mil/missions/regulatory.aspx>

Albuquerque District: Las Cruces Regulatory Field Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESP-ALBU-LC, 505 S. Main Street, Suite 142, Las Cruces, NM, 88001, telephone: (575) 556-9939, website: <http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>

EVALUATION AND VERIFICATION PROCEDURES FOR PCNs

For all discharges within the habitat types or areas listed in this Appendix, Section 7 a-e above, the USACE will coordinate with the resource agencies as specified in the Nationwide Permit (NWP) general condition on notification (currently General Condition 31(d), Federal Register, Vol. 77, No. 34, Tuesday February 21, 2012).

For activities in the State of Louisiana, the USACE will provide a copy of the PCN to the USFWS, Lafayette Ecological Services Office, and the Louisiana Department of Wildlife (LDWF) and Fisheries P. O. Box 98000, Baton Rouge, Louisiana 70898-9000, (225) 765-2800, Permit Coordinator for a 10-calendar day review. The review period will commence on the date that the USFWS-Lafayette and LDWF receive the PCN.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 14, 2015

Mr. Stephen Brooks, Division Chief
U.S. Army Corps of Engineers
Regulatory Division CESWF-EV-R
P.O. Box 17300
Fort Worth, Texas 76102-0300

Attention: Mr. Chandler Peter

Re: USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and
SWG-2014-00821

Dear Mr. Brooks:

This letter is in response to the Statement of Findings (SOF) received January 5, 2015 for the U.S. Army Corps of Engineers proposed reissuance of Regional General Permit (RGP) 8 for the construction, operation, modification, and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging. The RGP is applicable to all waters of the U.S. and navigable waters within the Fort Worth District's area of responsibility (AOR) within the state of Texas, the Albuquerque District's AOR within the state of Texas, and the Galveston District's AOR within the limits of Toledo Bend Reservoir.

The Texas Commission on Environmental Quality (TCEQ) has reviewed the public notice and related application information along with the SOF. On behalf of the Executive Director and based on our evaluation of the information contained in these documents, the TCEQ certifies that there is reasonable assurance that the project will be conducted in a way that will not violate water quality standards. General information regarding this water quality certification, including standard provisions of the certification, is included as an attachment to this letter.

RGP 8 authorizes the construction, operation, modification, and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging. The RGP provides authorization for recurring work that causes no more than minimal individual and cumulative adverse environmental impacts.

The RGP contains limitations and conditions to offset impacts to waters of the U.S., and all impacts to waters of the U.S. in excess of 0.1 acres must be mitigated through the purchase of mitigation bank credits, in-lieu fee, or permittee-responsible mitigation actions.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

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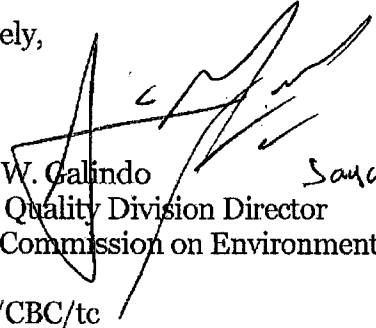
printed on recycled paper using vegetable-based ink

Mr. Chandler Peter
U.S. Army Corps of Engineers
USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821
Page 2
January 14, 2015

No review of property rights, location of property lines, nor the distinction between public and private ownership has been made, and this certification may not be used in any way with regard to questions of ownership.

If you require additional information or further assistance, please contact Mr. Brad Caston, Water Quality Assessment Section, Water Quality Division (MC-150), at (512) 239-4711 or by email at Charles.Caston@tceq.texas.gov.

Sincerely,


David W. Galindo
Water Quality Division Director
Texas Commission on Environmental Quality

*Same Zymar - Ponzebinek, PE
jul*

DWG/CBC/tc

Attachment

cc: Mr. Dwayne Johnson, Regulatory Division, CESWG-RD-P, U.S. Army Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553-1229

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

Page 1 of 3

WORK DESCRIPTION: As described in the public notice dated October 14, 2014, and the Environmental Assessment and Statement of Findings received January 5, 2015.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the January 5, 2015, Environmental Assessment and Statement of Findings and shall be concurrent with the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. If this application is a modification of an original permit or any modification thereof for which a special condition was cited by the Commission or a predecessor agency, such conditions shall remain valid. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the COE and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a COE permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ by calling the State of Texas Environmental Hotline at 1-800-832-8224.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

Page 2 of 3

appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.

5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.
7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.
8. Dredged Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TCEQ shall be contacted by calling the State of Texas Environmental Hotline at 1-800-832-8224. Dredging activities shall not be resumed until authorized by the Commission.
10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Noncontaminated storm water from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at:

Mr. Stephen Brooks, Branch Chief

USACE Permit Application No. SWF-2014-00296; SPA-2014-00355-LCO; and SWG-2014-00821

Attachment – Dredge and Fill Certification

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http://www.tceq.texas.gov/permitting/stormwater/wq_construction.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4671.

12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, ripped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters.
13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.
14. Where the control of weeds, insects, and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.
15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.
16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.
18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

November 21, 2014

Mr. Chandler Peter
Regulatory Branch, CESWF-DE-R
U.S. Army Corps of Engineers
Post Office Box 17300
Fort Worth, Texas 76102

AI No.: 101926
Activity No.: CER20140001

RE: Water Quality Certification WQC 141118-01
Fort Worth District Permit CESWF-14-RGP-8
Galveston District Permit SWG-2014-00821
Sabine, Desoto and Vernon Parishes

Dear Mr. Peter:

The Louisiana Department of Environmental Quality, Water Permits Division (LDEQ), has reviewed the public notice and permit to conduct activities associated with the construction, operation, modification and/or maintenance of boat ramps, minor water-related recreation structures and facilities, and associated dredging located in the Toledo Bend Reservoir in Sabine, Desoto and Vernon Parishes.

The information provided in the public notice and permit has been reviewed in terms of compliance with State Water Quality Standards, the approved Water Quality Management Plan and applicable state water laws, rules and regulations. LDEQ has determined that the requirements for a Water Quality Certification have been met. LDEQ concludes placement of dredged material will not violate water quality standards as provided for in LAC 33:IX.Chapter 11. Therefore, LDEQ hereby issues the U.S. Army Corps of Engineers Water Quality Certification, WQC 141118-01.

Should you have any questions concerning any part of this certification, please contact Elizabeth Johnson at (225) 219-3225, or by email at elizabeth.johnson@la.gov. To ensure all correspondence regarding this certification is properly filed into the Department's Electronic Document Management System, please reference your Agency Interest (AI) number 101926 on all future correspondence to this Department.

Sincerely,

A handwritten signature in black ink that reads "Scott Guilliams".

Scott Guilliams
Administrator
Water Permits Division

c: IO-W