



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

Public Notice

Applicant: **Dredging and Excavation Activities During
Drought Conditions in Texas**

Permit Application No.: **n/a**

Date: **May 23, 2014**

The purpose of this public notice is to inform you of various permits which may be useful for dredging, excavation, or other maintenance activities during low reservoir, lake and stream caused by the extended drought conditions. The descriptions of the work authorized by the various permits may help expedite your dredging or excavation project as many may not require you to obtain a written permit as long as the work meets the scope of the permit and is in compliance with the regional conditions and best management practices.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact:

Appropriate District Office (see map)

Dredging and Excavation Activities During Drought Conditions

Summary

In response to the on-going drought in Texas, the U.S. Army Corps of Engineers is providing this summary of existing regulations that may streamline many activities within waters of the United States including maintenance of existing facilities, dredging in and around water intake structures, boat slips, and docks, and dredging and excavation in lakes and reservoirs. Many of the existing permits have scopes of work and thresholds that may allow you accomplish your project without delay or waiting for an authorization. However, depending upon the size and location of your proposed work, you may be required to provide an application or preconstruction notification (PCN) for our review and authorization of your project. All dredging projects should be designed to allow for positive drainage to avoid the creation of stagnant pools and fish entrapment as waters levels decrease. In some instances, compensatory mitigation may be required. Please note, the presence of drought conditions in no way diminishes the extent and location of federal jurisdiction with respect to waters of the U.S., i.e. just because an area may appear as dry land, does not mean that it is no longer regulated under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. As water levels have receded in many of the lakes, vegetation has grown on the previous lake bottom. Mowing is not considered a discharge of dredged or fill material and may be accomplished without a Section 404 permit. Please note that all Regional and General Conditions, such as compliance with the Endangered Species Act and Section 106 of the National Historic Preservation Act still apply. For more information regarding each of the following permitting options go to <http://www.swf.usace.army.mil/Missions/Regulatory.aspx> . These permits do not authorize any damage to private property, invasion of property rights, or any infringement of federal, state, or local laws or regulations. Check with the local reservoir or water authority prior to any activities. *If you are unsure if the work you are proposing to accomplish may need a permit, use our [pre-application form](#) and we will assign a project manager to you for guidance.*

Maintenance Exemptions

Certain activities that result in a discharge of dredge or fill material of a previously authorized permit may not require Section 404 authorization. Examples of activities meeting this exemption may include maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures, but also includes construction or maintenance of farm or stock ponds, construction of temporary sedimentation basins. See 33 CFR 323.4 for more information.

NWP 3 Maintenance

While this nationwide permit (NWP) is used to authorize the repair, rehabilitation and replacement of currently serviceable structures or fills, it does authorize the removal of accumulated sediments and debris within 200 feet of existing structures such as bridges, culverted road crossings, and intake and outfall structures. The 200 feet limit does not apply to

maintenance dredging to remove accumulated sediments blocking or restricting outfall or intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall or intake structures. A PCN is required for the removal of sediments. For more information go to [NWP-3](#) for use in the State of Texas and [here](#) for an application.

NWP 19 Minor Dredging

This NWP allows for the dredging of no more than 25 cubic yards below the plane of the ordinary high water mark, the mean high water mark or reservoir conservation level from navigable waters of the United States (i.e., Section 10 waters). No PCN is required for this limited amount of dredging. *Best management practices must be used to control sediments from re-entering the water.* This NWP does not authorize the dredging or degradation through siltation of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), anadromous fish spawning areas, or wetlands, or the connection of canals or other artificial waterways to navigable waters of the United States (see 33 CFR 322.5(g)). (Sections 10 and 404) [NWP-19](#) (Note esp. NWP **Regional Conditions** 11 and 12 for use in the Galveston District).

Regional General Permit 8-Boat Ramps and Minor Facilities

Among other activities, RGP-8 *allows for the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., boat ramps, boat slips, boat docks, bridges, culverted road crossings, etc.) and the placement of new rip rap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. **If the area to be dredged is less than 1/10 acre, does not result in permanent or temporary adverse effects to forested wetlands and does not occur within the habitat types listed in criteria 6.c.1-2, or d.(page 4), and best management practices are used to control sediments from re-entering the water, no PCN would be required.*** The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the USACE. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the USACE.

PRECONSTRUCTION NOTIFICATIONS

Preconstruction notifications (PCNs) requesting verification from the USACE of authorization under this RGP must include a written 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. The detail of the information should be commensurate with the size and environmental impact of the project. Available for use in the Fort Worth and Albuquerque Districts within the State of Texas. See [RGP-8](#) for additional information.

Letter of Permission Procedure for Activities at Certain Reservoirs and Federal and State Sponsored Projects (LOP-1)

The scope of work that may be authorized by this LOP procedure includes *any activity at a USACE, Bureau of Reclamation, state river authority, regional water district, city, county, or utility reservoir, including, but not limited to, bank stabilization, beach nourishment, property protection, and sediment removal.* Work authorized by this LOP may also include any projects conducted, sponsored, or funded, in whole or in part, by the USACE, U. S. Fish and Wildlife Service (FWS), U. S. Environmental Protection Agency (EPA), Natural Resources Conservation Service (NRCS), Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), or the Texas Water Development Board (TWDB). Activities associated with such programs as the Water Resources Development Act of 1986, as amended, Section 1135 Project Modifications for Improvement of Environment, Partners for Wildlife, the North American Waterfowl Management Plan, and the Wetlands Reserve Program and activities at National Wildlife Refuges, State Wildlife Management Areas, and State Parks are eligible for authorization under this procedure. Available for use in the Fort Worth, Galveston, Albuquerque and Tulsa Districts within the State of Texas. For application procedures and additional information, see [LOP-1](#).

Letter of Permission Procedure for Excavation Activities (LOP-2)

The scope of work for the LOP-2 is limited to discharges of dredged or fill material associated with excavation activities in waters of the United States, including navigable waters of the United States. *Activities that may be authorized by LOP under this procedure include, but are not limited to, removal of accumulated sediment at road crossings, dredging of new and maintenance dredging of boat slips, boat access lanes and channels, intake and outfall structures, mining of sand and gravel, and work associated with these activities, such as the construction of temporary coffer dams to perform such work.* This procedure may be used to authorize the disposal of material excavated under authority of an LOP into waters of the United States provided the purpose of the disposal is not land reclamation. Impacts to waters of the United States, including wetlands, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States shall be required. Work that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States shall not be authorized by LOP under this procedure.

APPLICATION PROCEDURES:

An application for authorization of work under this LOP procedure must include a written description of the entire project, proposed work schedule, and the address and telephone number of a point of contact who can be reached during working hours. The information may be submitted on an Application for Department of the Army Permit form (ENG Form 4345) or in any other form convenient to the applicant. A description of the project must include at least the following information, as applicable:

1. A vicinity map showing the location of the entire project, including all disposal site(s).

2. Plan and typical cross-section views of the proposed work.
3. A description of the type, amount, and location of all permanent and temporary fills and excavations that would be located in waters of the United States, including adjacent wetlands. A description of each disposal site shall also be included.
4. A statement disclosing whether any species listed as threatened or endangered under the Endangered Species Act might be affected by, or found in the vicinity of, the proposed project should be included. Direct coordination with the U.S. Fish and Wildlife Service (FWS) regarding the entire project is encouraged. A written response from the FWS should be included in the application whenever possible.
5. Any other available relevant information, such as information regarding cultural resources, the proximity of the project to ecologically sensitive areas, results of previous sediment sampling, and project impacts on local/regional hydrology. Available for use in the Fort Worth, Galveston, Tulsa, and Albuquerque Districts within the State of Texas. For application procedures and additional information, see [LOP-2](#)

Programmatic General Permit-2 (PGP-2)-Activities Authorized by Lower Colorado River Authority Lakewide Permits

Applicable only at Lake Travis, Lake Marble Falls, Lake Lyndon B. Johnson, Inks Lake, and Lake Buchanan, work authorized by this PGP is limited to discharges of dredged and fill material into waters of the United States (U.S.), excluding wetlands, associated with activities specifically authorized by the Lower Colorado River Authority (LCRA) in a lakewide permit during planned lake drawdowns and other events that result in lake levels 5 feet or more below the when-full elevation of the lake. Lakewide permitted activities eligible for authorization are:

1. Maintenance dredging of up to 2,000 cubic yards of material below the when-full elevation of the lake (currently 681 feet National Geodetic Vertical Datum (NGVD) at Lake Travis, 738 feet NGVD at Lake Marble Falls, 825 feet NGVD at Lake Lyndon B. Johnson, 888.22 feet NGVD at Inks Lake, and 1020.35 feet NGVD at Lake Buchanan) to maintain access, use, and navigability of lake waters, provided that: no dredged material is placed permanently into a water of the U. S., or into an area or in such a way that would likely be returned to waters of the U. S. during a storm event, other than as necessary to meet the terms and conditions of this permit; dredged areas are gradually sloped downward from the shoreline so as to blend the newly dredged area into the existing channel bottom contour and smoothed to prevent any irregular surfaces or cuts that might collapse or erode; dredged areas are maintained so as not to allow water to become isolated from the remainder of the lake; dredged material obtained from areas near marine service stations, boat refinishing or repair operations are disposed of at approved disposal sites for this type of material in accordance with all applicable local, state, and federal laws and regulations. If dredged material is placed on land that drains into any water of the U. S., temporary erosion controls, such as silt fences, must be used around the material until the material is stabilized by permanent vegetation. No dredging is authorized that is either more

than 15 feet below the normal or conservation pool elevation of the lake or below the original or previously dredged bottom elevations.

2. Clearing of debris, such as tree trunks and limbs and trash, from around boat docks or retaining walls, provided no material removed is placed permanently in a water of the U. S.

3. Repair of existing retaining walls and bulkheads, including the placement of up to 2 cubic yards of 6- to 12-inch diameter rock riprap per linear (running) foot at the base of the structure, provided the work otherwise complies with the requirements of USACE nationwide permit 3 for maintenance, USACE nationwide permit 13 for bank stabilization, or USACE, Fort Worth and Albuquerque Districts Regional General Permit (RGP) 8 (CESWF-09-RGP-8) for boat ramps and minor facilities. For work in the highland lakes, contact Highland Lakes Watershed Ordinance, Lower Colorado River Authority, P. O. Box 220, Austin, Texas 78767-0220 or telephone (800) 776-5272, extension 2324). For application procedures and additional information, go to [PGP-2](#)

