



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

Public Notice

Number: CESWF-21-PGP-2 (CESWF-2021-00166)

Activity: Activities Authorized by LCRA Lakewide Permits

Date: March 19, 2021

This public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in the process.

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 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

U.S. Army Engineer District
Regulatory Division
PO Box 1730
Fort Worth, TX 76102-0300
(817) 886-1736

PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Evaluation of the proposed re-issuance of a U. S. Army Corps of Engineers (USACE) Programmatic General Permit (PGP) under Section 404 of the Clean Water Act (CWA) for discharges of dredged or fill material into waters of the United States and Section 10 of the Rivers and Harbors Act of 1899 for work in, or affecting, navigable waters of the United States for Section 404 discharges associated with the construction and maintenance of activities authorized by Lower Colorado River Authority (LCRA) Lakewide Permits. A PGP may not be used to authorize work subject to regulation under Section 404 of the CWA until water quality certification has been issued or waived.

PERMIT NUMBER: The "Proposed Programmatic General Permit, Activities Authorized by Lower Colorado River Authority Lakewide Permits" has been designated CESWF-21-PGP-2 (CESWF-2021-00166).

DATE ISSUED: March 19, 2021

DATE COMMENT PERIOD CLOSSES: April 19, 2021

LOCATION: Lakes Travis, Marble Falls, Lyndon B. Johnson, Inks, and Buchanan, in the Fort Worth District of the USACE, in the State of Texas (See Location of Work in the enclosed proposed PGP).

PROJECT DESCRIPTION: This proposed PGP, if issued, would continue to provide Department of the Army authorization for recurring work that causes no more than minimal individual and cumulative adverse environmental impacts. A PGP serves to reduce administrative procedures and expedite decisions for routine permit actions while relying in part upon another regulatory entity's processes. The attached information and appendices detail the proposed scope of activities to be covered, location, terms and conditions, and notification requirements associated with the proposed permit. Only minor text changes have been made to the previous version of the PGP.

PUBLIC INTEREST REVIEW FACTORS: The proposed PGP will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to authorize this PGP will be based on an evaluation of the probable impact, including cumulative impact, of the proposal on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands,

historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposal. Any comments received will be considered by the USACE in determining whether to adopt the proposed PGP. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposal.

STATE WATER QUALITY CERTIFICATION: Texas Commission of Environmental Quality (TCEQ) certification under Section 401 of the CWA is required for work within the state of Texas for activities to be approved under Section 404 of the CWA. A pre-filing meeting request for a 401 water quality certification was submitted to TCEQ March 17, 2021.

THREATENED AND ENDANGERED SPECIES: No authorization would be granted under this PGP for an activity that is likely to jeopardize the continued existence of an endangered or threatened species or a species proposed for such designation, as identified under the Endangered Species Act, or for an activity that is likely to destroy or adversely modify the critical habitat of such species. Any activity that has the potential to affect an endangered or threatened species would require review by the USACE and potential consultation with the U. S. Fish and Wildlife Service.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE will take into account the impact of activities authorized by this PGP on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP). If known or previously unknown cultural resources are encountered during work authorized by this permit, the permittee shall notify the appropriate USACE district and the resources shall be avoided until the USACE can assess their eligibility for listing in the NRHP. Sites determined to be eligible for listing in the NRHP shall be mitigated in consultation with the USACE. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest that occur in the permit area. Any activity that has the potential to affect such resources will require review by the USACE and potential consultation with the Texas Historical Commission.

SOLICITATION OF COMMENTS: This public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting

forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location of the hearing.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the above identified closing date of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the closing date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Chandler Peter, Regulatory Division, CESWF-DE-R, U.S. Army Corps of Engineers, P.O. Box 17300, Fort Worth, Texas 76102. You may visit the Regulatory Division in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth during regular business hours, Monday through Friday. Telephone inquiries may be directed to Mr. Peter at (817) 886-1736.

DISTRICT ENGINEERS
FORT WORTH DISTRICT
CORPS OF ENGINEERS

PROGRAMMATIC GENERAL PERMIT-2

ACTIVITIES AUTHORIZED BY LOWER COLORADO RIVER AUTHORITY LAKEWIDE PERMITS

Work authorized by this PGP is limited to discharges of dredged and fill material into waters of the United States, 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.

SCOPE OF WORK

Lakewide permitted-activities eligible for authorization are:

1. **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:

- No dredged material is placed permanently into a water of the United States 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 dredged areas must be 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 must be 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 United States, 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 10 feet below the normal or conservation pool elevation of the lake or below the original or previously dredged bottom elevations.

Note: If the dredging activity does not result in the discharge of dredged or fill material into waters of the US there is no cubic yardage limitation since such activities are not regulated by the U.S. Army Corps of Engineers.

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 United States.

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 District Regional General Permit (RGP) 8 (CESWF-20-RGP-8) for boat ramps and minor facilities. (For copies of the nationwide permits or RGP 8, see <http://www.swf.usace.army.mil/Missions/Regulatory.aspx> or contact Highland Lakes Watershed Ordinance, Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767-0220 or telephone (800) 776-5272, extension 3597.)

CONDITIONS OF THE PGP

In addition to limitations discussed in the scope of work, projects authorized by this PGP are subject to the general conditions contained in Appendix A. References in the general conditions to "completion of construction" refer to completion of work within the permit area for the Department of the Army work in, and adjacent to, waters of the United States. Also, for projects requiring water quality certification, projects are subject to the conditions of the water quality certification that applies.

LOCATION OF WORK

This PGP shall be applicable to work in areas regulated by LCRA at Lakes Travis, Marble Falls, Lyndon B. Johnson, Inks, and Buchanan in Travis, Burnet, Llano, and San Saba Counties in the State of Texas (see Appendix B).

POTENTIAL OTHER AUTHORIZATIONS

A listing of potential other federal, state, or local permits, approvals, or authorizations required by law is contained in Appendix C.

WATER QUALITY CERTIFICATION

State water quality certification under Section 401 of the Clean Water Act for the PGP from the Texas Commission on Environmental Quality (TCEQ) will be attached, if issued.

EVALUATION, VERIFICATION, AND COMPLIANCE PROCEDURES

Permit applicants must possess a valid lakewide permit from LCRA prior to the start of work. LCRA will provide a copy of this PGP with each lakewide permit issued. It is the applicant's responsibility to ensure that the construction is in compliance with all terms and conditions set forth herein. Please pay particular attention to general conditions 11 and 14, which require approval from the USACE before work begins in certain cases involving potential effects to cultural resources and endangered species, respectively. Failure to abide by these conditions invalidates the authorization and constitutes a violation of the Clean Water Act. Provided all terms and conditions are met, work may begin without additional administrative procedures from the USACE except in those special situations discussed below. Projects beyond the scope of this PGP may be considered for authorization by individual permit. In order for this PGP to remain in effect, LCRA must:

1. Provide an annual report 10 working days after October 1 of the number of activities authorized under this PGP for the period October 1-September 30 for the preceding year. Annual reports must also address such matters as: who has been authorized to do work; the scope of the work accomplished; when work was accomplished; and compliance with the scope and conditions of this PGP, including particularly compliance with conditions on cultural resources and endangered species.

Address requests for, and inquiries concerning information about, LCRA lakewide permits to:
**Highland Lakes Watershed Ordinance, Lower Colorado River Authority, P. O. Box 220,
Austin, Texas 78767-0220 or telephone (800) 776-5272, extension 3597.**

Address inquiries about this PGP to:

**Regulatory Division, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-
DE-RD, P.O. Box 17300, Fort Worth, TX 76102-0300, or telephone (817) 886-1731.**

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. Projects outside the scope of this PGP can be considered for authorization by individual permit.

This PGP shall become effective on the date of the signature of the District Engineer, or his authorized representative, and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Activities that have commenced, i.e. are under construction, or are under contract to commence in reliance upon this permit will remain authorized provided the activity is completed within twelve months of the date of this PGP's expiration, modification, or revocation, 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 ENGINEER:

Kenneth N. Reed
Colonel, Corps of Engineers
District Engineer
Fort Worth District

APPENDIX A
GENERAL CONDITIONS
PROGRAMMATIC GENERAL PERMIT CESWF-21-PGP-2

1. In verifying authorization under this programmatic general permit (PGP), 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 PGP 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 PGP 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 PGP 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 PGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.
4. This PGP 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 PGP 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 make every reasonable effort to 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.
10. 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 PGP.

11. Permittees must evaluate the effect that the proposed work would have on historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to the initiation of work. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest that occur in the permit area. If a known historic property would be encountered, 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

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

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

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

20. Permittees shall remove all excess material and temporary fill and structures placed in waters of the United States to upland areas and stabilize all exposed slopes immediately upon completion of construction. Material may be temporarily sidecast into waters of the United States for up to 10 days provided that the material is placed in a manner that will not allow it to be dispersed by currents or other forces. Areas affected by temporary fills 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.

21. 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.

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

23. Channel and boat lane construction and maintenance are not authorized.

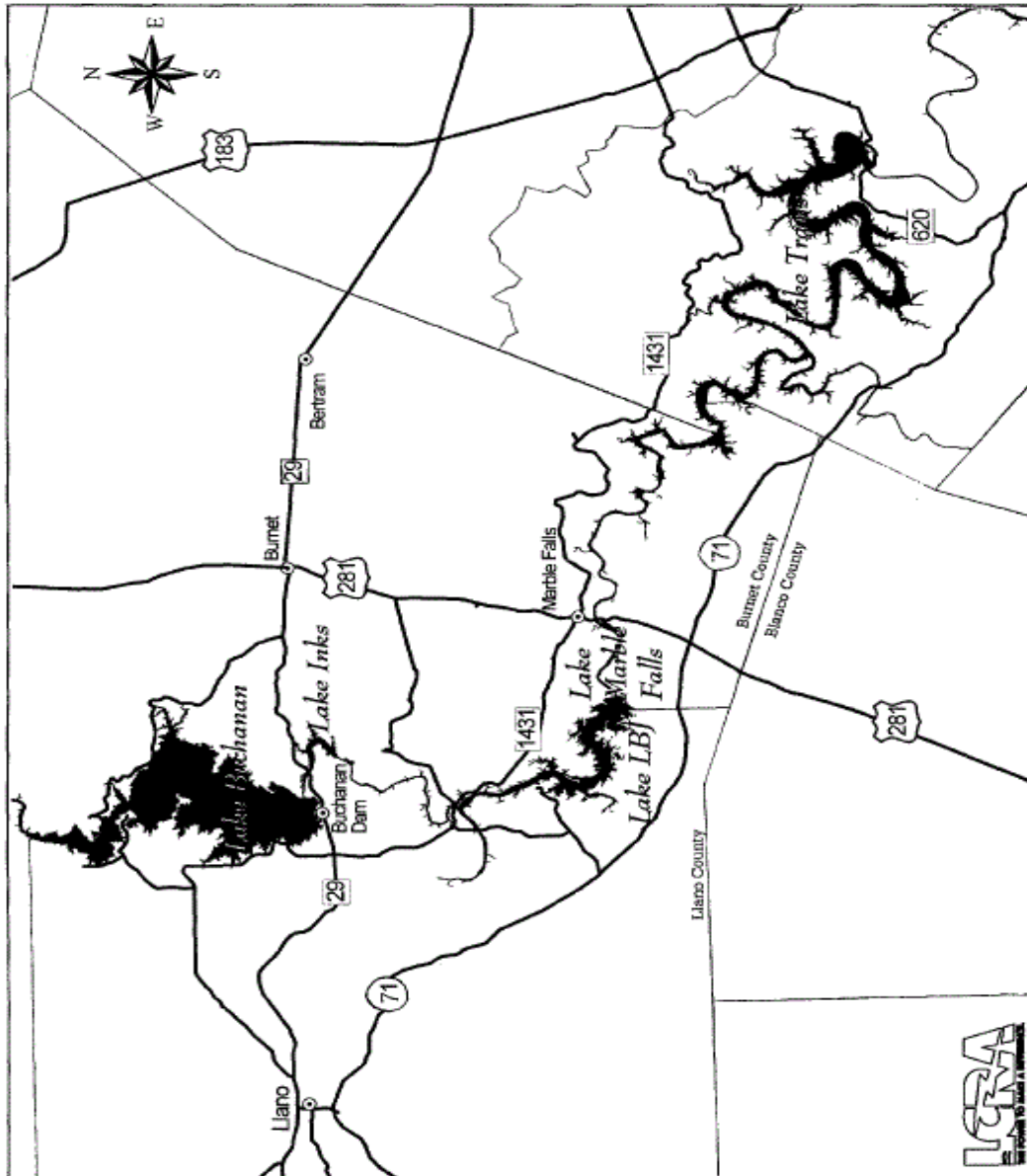
24. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

25. Permittees are responsible for compliance with all terms and conditions of this PGP for all activities within the Department of the Army permit area of a project authorized by this PGP, 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 the work authorized herein 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. The USACE strongly encourages pre-construction meetings with all construction contractors detailing the terms and conditions of this PGP prior to commencing construction.

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

27. 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 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 that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land.

APPENDIX B
LOCATION OF WORK



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APPENDIX C

POTENTIAL AUTHORIZATION FROM OTHER AGENCIES

This PGP 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. When streambed materials such as sand, shell, gravel and marl would be disturbed or removed from state-designated navigable waters, state-owned waters, or certain perennial 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.
2. 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.
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 also general condition 27). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
4. 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. 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.
5. Activities such as clearing, grading, and excavation that would disturb one or more acres of land may require a National Pollutant Discharge Elimination System (NPDES) storm water management permit from the U.S. Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas Texas 75202 or a TPDES storm water management permit from the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.
6. 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.
7. 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 the FWS in Austin: Compass Bank Building, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512) 490-0057, <http://www.fws.gov/southwest/es/austintexas/>.
8. Activities 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: Texas Parks and Wildlife Department, Wildlife Division, Wildlife Habitat Assessment Program, 4200 Smith School Road, Austin, Texas 78704,
www.tpwd.state.tx.us/publications/pwdforms/media/pwd_1059_w7000_coordination_and_review.doc