



Public Notice

US Army Corps
of Engineers
Fort Worth District

Number: CESWF-01-RGP-11

Activity: Exploration and Production Wells

Date: October 25, 2001

The purpose of this public notice is to inform you of the issuance of the Regional General Permit identified above.

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

Fort Worth District
Regulatory Branch
P. O. Box 17300
Fort Worth, TX 76102-0300
(817)978-2681

Albuquerque District
El Paso Regulatory Office
P. O. Box 6096
Fort Bliss, TX 79906-0096
(915)568-1359

Tulsa District
Regulatory Branch
1645 South 101st East Avenue
Tulsa, OK 74128-4609
(918)669-7400

REGIONAL GENERAL PERMIT

EXPLORATION AND PRODUCTION WELLS

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, Albuquerque and Tulsa 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 minor, recurring work. 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 will 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.

This RGP has been designated CESWF-01-RGP-11 in the Fort Worth District, 2001 00047 in the Albuquerque District, and TXG30009 in the Tulsa District. This RGP replaces Regional General Permit SWF-95-RGP-11 in the Fort Worth District and 1995 50100 in the Albuquerque District for Exploration and Production Wells, which expired on March 11, 2001. The recently-expired RGP was not applicable in the Tulsa District.

SCOPE OF WORK

Work authorized by this RGP is limited to the discharge of dredged or fill material into waters of the United States, including wetlands, and work in, or affecting navigable waters of the United States, associated with the construction and operation of exploration and production wells for oil, gas, and water and their supporting fills and structures. Activities that may be authorized by this RGP include, but are not limited to, the construction of drilling pads, reserve and mud pits, access roads, dikes, levees, and production facilities, production and storage facilities, pipelines, coffer dams, equipment ramps, borrow pits, disposal areas, and staging areas associated with exploration and production wells. Impacts to waters of the United States, including wetlands, shall be avoided and minimized through the use of practicable alternatives. Realignment of streams is allowed only if no practicable alternative exists and appropriate compensatory mitigation is provided, and is restricted to a maximum of 500 feet. Reasonable compensatory mitigation shall be required for unavoidable adverse impacts to all waters of the United States. Activities that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States are not authorized by this RGP.

The activities listed above are authorized by this RGP provided they meet all of the following criteria:

1. **Drilling Site**: The discharge of dredged and fill material associated with land clearing and leveling and for the construction of drilling pads, reserve and mud pits, water pits, dikes, levees, and associated facilities is limited to an area of 2.5 acres, not including areas for production facilities and access roads. However, both the size of the drilling site and the amount of dredged and fill material discharged into waters of the United States, including that necessary for access roads, must be the minimum necessary to accomplish the work. In cases where oil-based drilling muds are being used in the drilling operation, containerized mud systems must be used instead of open surface pits. In cases where water-based drilling muds are being used, the USACE encourages permittees to use containerized mud systems, where practicable. Borrow material used to construct reserve, water, and mud pit levees must be obtained from inside the levee if the material is suitable for such use. All pits shall be suitably lined with an impervious material. Permittees shall avoid waters of the United States, including wetlands, in selecting the location of drilling sites where practicable alternative sites exist. This permit does not authorize any drilling site located within 1,200 feet of an unrestored drilling site (see "Drilling Termination" and "Well Abandonment" sections below) located in a water of the United States, within 600 feet of any restored drilling site located in a water of the

United States, or within 1,200 feet of the toe of any levee, dike, dam or other work built with Federal funds for flood control or water supply, or by any state or local government without written approval from the appropriate agency. All fill material placed into waters of the United States shall be clean, of suitable quality, and free of contaminants in toxic quantities.

2. Access Roads: Adverse impacts to waters of the United States, including wetlands, caused by the construction of access roads and turn-arounds shall be minimized by such means as taking the shortest practicable route through waters of the United States, utilizing existing roads, following previously disturbed areas to the maximum extent practicable, and limiting the width of ground disturbance in constructing access roads and turn-arounds to the minimum amount necessary. The clearing of vegetation for access road rights-of-way in waters of the United States must be the minimum necessary and in no case shall exceed a width of 40 feet. Turn-arounds up to 90 feet in diameter may be constructed in waters of the United States at one-mile intervals along access roads. Crossings of waters of the United States shall be avoided where practicable alternatives exist. Roads shall be designed to pass low flows and expected high flows and not interfere with the migration of aquatic organisms or create impoundments.

All access roads raised above the existing ground elevation in waters of the United States must be suitably bridged or culverted to minimize adverse impacts to local drainage patterns. Roads shall not promote the drainage of waters of the United States or cause unnecessary impoundment of water. Bridges or culverts for roads in wetlands shall be spaced no further than 500 feet apart and at all surface drainages. Bridges and culverts shall be sized to adequately pass low flows and expected high flows. Roadside borrow ditches shall not be continuous; each section of ditch shall be no longer than 300 feet and shall be separated from adjacent sections of ditch by at least 50 feet of unexcavated ground.

3. Production Facilities: Production facilities shall be located outside of wetlands whenever practicable to minimize adverse impacts to the aquatic environment, provide easier access to these facilities, reduce flood damage, and lessen the potential for contaminating surface water. Production facilities that must be located in wetlands should be centrally located to service as many wells as practicable. The clearing of vegetation in waters of the United States for storage and production facilities is limited to one (1) acre. Storage and production equipment shall be properly diked to contain spills and leakage. Production pipelines constructed through waters of the United States should follow previously disturbed areas such as access roads, fence lines, and utility line rights-of-way as much as practicable to minimize adverse impacts to the aquatic environment.

4. Erosion and Water Control: All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be taken as necessary. Damage resulting from sedimentation and/or erosion shall be repaired.

5. Drilling Termination: Upon completion of drilling activity, a thorough and extensive cleanup operation shall be conducted, including removing from the drilling site to an upland disposal site all saltwater, drilling mud, brine, hydrocarbons, and any substances considered toxic under federal regulations. Only equipment and supplies necessary for operation of the well shall remain onsite. All pits shall be filled within 90 days following the termination of drilling. The disposal of drilling mud and control of accidental spills and discharges shall comply with all applicable state and federal regulations. The portion of the pad that is no longer needed for well operation and maintenance shall be removed and the area restored to preconstruction contours and conditions within 90 days following the termination of drilling, unless an alternative resolution is specifically authorized by the USACE. Restoration shall include the establishment of an appropriate native grass-and-forb herbaceous ground cover and replanting of native trees and shrubs that are suitable for the site, wherever practicable. For

cases where USACE preconstruction notification is required, permittees shall submit a written compliance report to the USACE within 120 days after drilling termination that includes the following:

- a. a statement as to whether the authorized work and mitigation required to date has been done in accordance with the USACE authorization, including all general and special conditions;
- b. a summary of all construction and mitigation activities that occurred associated with the project, including documentation of the completion of all work and compliance with all terms and conditions of the permit;
- c. a comparison of the post-construction conditions of the project area to the pre-construction conditions of the area;
- d. a detailed description of all impacts to waters of the United States;
- e. a map showing the final configuration of restored, enhanced, created and preserved waters of the United States, including wetlands;
- f. the species, number and acreage of vegetation planted, the final topographic elevations of the project, and a map describing the location of the plantings;
- g. 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;
- h. the status of the well, whether abandoned or producing; and
- i. maps and photographs, as appropriate, to illustrate the information presented.

6. Well Abandonment: Wells shall be plugged and capped in accordance with state regulations prior to abandonment. Unless alternative activities are specifically authorized by the USACE, all drilling pads, dikes, levees, structures, and their foundations and access roads, shall be removed and mud and reserve pits filled. The areas shall be returned to preconstruction contours and protected against erosion by suitable means. Fill material removed from the site shall not be disposed of in a water of the United States without USACE authorization. The restoration of abandoned well sites shall be completed within 90 days of the date the well is plugged. For cases where USACE notification is required, permittees shall submit a final written compliance report to the USACE within 120 days after well abandonment that includes the following:

- a. a statement addressing whether the authorized work and required mitigation required to date has been done in accordance with the USACE authorization, including all general and special conditions;
- b. a summary of all construction and mitigation activities that occurred associated with the project, including documentation of the completion of all work and compliance with all terms and conditions of the permit;
- c. a comparison of the post-construction conditions of the project area to the pre-construction conditions of the area;
- d. a detailed description of all impacts to waters of the United States;
- e. a map showing the final configuration of restored, enhanced, created and preserved waters of the United States, including wetlands;
- f. the species, number and acreage of vegetation planted, the final topographic elevations of the project, and a map describing the location of the plantings;

- g. a discussion about whether disturbed areas, such as borrow ditches, road embankments, stream banks, road crossings, and temporary impact areas are revegetating adequately and not suffering erosion damage; and
- h. maps and photographs, as appropriate, to illustrate the information presented.

If well abandonment occurs at the same time as drilling termination, then only one final compliance report is required.

7. Mechanized Land Clearing: Mechanized land clearing necessary for the construction and operation of exploration and production wells, is authorized provided the cleared area is kept to the minimum necessary and there is no more than minimal adverse impact on the aquatic environment.

8. Sidecasting: Material resulting from trench excavation may be temporarily sidecast into waters of the United States for up to three months provided that the material is not placed in a manner that will allow it to be dispersed by currents or other forces. The District Engineer may extend the period of side-casting to a period not to exceed 180 days, where appropriate. In wetlands, the top 6 to 12 inches of a trench should generally be backfilled with topsoil from the trench.

9. Preconstruction Notification (PCN): A prospective permittee must notify the USACE in accordance with the requirements of the "Preconstruction Notifications" section below if the discharge or work would:

- a. cause the loss of greater than 1/10 acre of waters of the United States. "Loss of waters of the United States" is defined as waters of the United States that are filled or permanently adversely affected by flooding, excavation, or drainage as a result of the regulated activity;

- b. result in permanent or temporary adverse effects to forested wetlands;

- c. require stream realignment; or

- d. occur within any of the following habitat types or specific areas:

- 1) 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 sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.);

- 2) 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);

- 3) the area of Caddo Lake within Texas that is designated as a "Wetland of International Importance" under the Ramsar Convention; or

- 4) the Comal River, the San Marcos River, the Pecos River, Lake Casa Blanca, or within areas identified as critical habitat for the Concho Water snake (Nerodia hateri paucimaculata), including areas of the Concho and Colorado Rivers and Ivie (Stacy) Reservoir, Houston toad (Bufo houstonensis), or the Arkansas River shiner (Notropis girardi) (see also General Condition 17).

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.

CONDITIONS OF THE RGP

In addition to the limitations discussed in the scope of work, activities authorized by this RGP are subject to the general conditions listed in Appendix A and, for projects requiring water quality certification, the conditions of the water quality certification that applies.

LOCATION OF WORK

The provisions of this RGP permit will be applicable to all waters of the United States, including all navigable waters of the United States, within the regulatory boundaries of the Fort Worth, Albuquerque, and Tulsa districts, in the states of Texas and Louisiana (see the attached district boundary map and list of navigable waters, Appendixes B and C). The Fort Worth District includes the Sabine River watershed in Sabine, De Soto, and Caddo Parishes in the State of Louisiana.

WATER QUALITY CERTIFICATION

The Texas Natural Resource Conservation Commission (TNRCC) has certified pursuant to Section 401 of the CWA and Title 30, Texas Administrative Code, Chapter 279, for the activities for which it is responsible, that activities conducted under this RGP should not result in a violation of established Texas Water Quality Standards provided the standard provisions (see Appendix E) and General Condition 32 (see Appendix A) are followed.

The Railroad Commission of Texas (RRC) has granted certification pursuant to Section 401 of the CWA, for the activities for which it is responsible, that activities conducted under this RGP comply with applicable water quality laws conditional on addition of language to the permit advising that a RRC permit may be required for any point source discharge of pollutants from an outfall structure associated with oil and gas exploration, development, and production and language concerning the use of mud systems in floodplains (see Appendix E). The required language has been added.

The Louisiana Department of Environmental Quality (LDEQ) has certified pursuant to Section 401 of the CWA and LAC 33:IX.1507.A-E that the requirements for water quality certification for the State of Louisiana have been met and that placement of fill material associated with the RGP will not violate the water quality standards of Louisiana provided for under LAC 33:IX.Chapter 11. (see Appendix E).

AUTHORIZATION 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. When stream bed materials such as sand, shell, gravel and marl are to be disturbed or removed from state-owned 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 stream beds, state-owned uplands, or coastal public lands in Texas may require the issuance of a lease or easement from the GLO.

3. Any work on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that agency.
4. Projects involving government property on USACE reservoirs will require submission of detailed design information to the reservoir manager and USACE approval of the proposed activity, including a real estate consent to easement.
5. Activities within a 100-year floodplain may require a permit from the local floodplain administrator or the TNRCC Flood Management Unit, (512)239-4771. In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
6. 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 TNRCC, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.
7. Activities such as clearing, grading, and excavation that would disturb five 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 TNRCC, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.
8. The use of scrap tires for bank stabilization and erosion control requires notification of the TNRCC Waste Tire Recycling Program, P. O. Box 13087, Austin, Texas 78711-3087.
9. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Tex. Nat. Res. Code Ann. §91.101, may require authorization from the Railroad Commission of Texas, P. O. Box 12967, Austin, Texas 78711-2967, the Federal Energy Regulatory Commission, 3125 Presidential Parkway, Suite 300, Atlanta, Georgia 30340, and/or the Texas General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495.
10. Activities involving the discharge of drilling muds, drill cuttings, or produced brine into waters of the State of Louisiana must have a permit from the Louisiana Department of Environmental Quality, Office of Environmental Services, P. O. Box 82135, Baton Rouge, Louisiana 70884-2135.
11. The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Proposed activities subject to authorization under this permit and affecting 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.
12. Projects involving construction of a bridge or equivalent thereof across a navigable water of the United States may require authorization from the Commander, Eighth Coast Guard District (ob), Bridge Administration Branch, Hale Boggs Federal Building, Room 1313, 501 Magazine Street, New Orleans, Louisiana 70130-3396.

13. Activities outside the permit area of the USACE 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. **U. S. Fish and Wildlife Service. Arlington:** WinSystems Centre Building, 711 Stadium Drive East, Suite 252, Arlington, Texas 76011, (817)277-1100. **Austin:** Hartland Bank Building, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512)490-0057. **Corpus Christi:** TAMU-CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512)994-9005. **Houston:** 17629 El Camino Real, Suite 211, Houston, Texas 77058, (713)286-8282. **Lafayette:** Building 2, Suite 102, 825 Kalist Faloom Road, LaFayette, Louisiana 70508, (318)262-6662.

14. Activities may affect state-listed rare, threatened, or endangered species. For a rare, threatened, and endangered species review in the State of Texas, project details should be submitted to Wildlife Habitat Assessment, Texas Parks and Wildlife Department, 3000 South IH 35, Suite 100, Austin, Texas 78704.

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 a point of contact, with an address and a telephone number at which the point of contact can be reached during normal business hours. The information may be assembled and submitted in a format convenient to the applicant. The description of the project must include at least the following information, as applicable:

1. The purpose of, and need for, the project.
2. A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment. 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.wes.army.mil/el/wetlands/wlpubs.html>), including all supplemental guidance (currently includes guidance dated October 7, 1991, and March 6, 1992). The supplemental guidance is included in the on-line version and may also be obtained from your USACE district office. In addition, include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.
3. A vicinity map (e.g., county map, USGS topographic map, etc.) showing the location of all temporary and permanent elements of the project, including the drilling pad, reserve and mud pit(s), production and storage facilities, access road(s), pipelines, coffer dam(s), equipment ramp(s), borrow pit(s), disposal areas(s), staging area(s), etc. This map, or an additional map, must show the project area in relation to any nearby wells, access roads, highways and other roads, and other pertinent features. The distance to the nearest active oil or gas well must be shown on the map or provided in other discussions about the proposed activity. A ground survey is not required to obtain this information.
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 United States, including wetlands and a description of the proposed activities and structures, such as the type of drilling fluid being used, and the dimensions, and/or locations of drilling pads, containerized mud systems, reserve and mud pits, production and storage facilities, access roads, pipelines, coffer dams, equipment ramps, borrow pits, disposal areas, and staging areas within the USACE permit area. The permit area includes all waters of the United States affected by activities associated with the project, as well as any additional area of non-waters of the United States in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the United States. The USACE permit area includes drilling pads, reserve and mud pits, production and storage facilities, access roads, pipelines, coffer dams, equipment ramps, borrow pits, disposal areas, and staging areas in most cases where they are proposed associated with an exploration or production well. The description of the proposed access roads must include such information as the road's height,

width, and length, width of the cleared right-of-way, location of each crossing of a water of the United States, size and spacing of culverts and bridges.

5. The volume of material proposed to be discharged into and/or excavated from waters of the United States and the proposed type and source of the material.
6. A written discussion of the alternatives considered and the rationale for selecting the proposed alternative as the least environmentally damaging practicable alternative. Practicable alternatives that do not involve a discharge into a special aquatic site, such as wetlands, are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. The PCN must also include documentation that the amount of area impacted is the minimum necessary to accomplish the project.
7. An assessment of the adverse and beneficial effects of the proposed work and documentation that the work would result in no more than a minimal adverse impact on the aquatic environment.
8. A drilling termination and well abandonment site restoration plan.
9. A compensatory mitigation plan for unavoidable adverse impacts to the aquatic environment. This 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 ecosystem unavoidably lost in the project area because of the proposed work (see Appendix E).
10. An assessment documenting 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. Direct coordination with the FWS concerning the potential impact of the entire project on threatened and endangered species is strongly encouraged. (See also General Condition 17)
11. A discussion 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 proposed activity.
12. For projects in the State of Louisiana, the comments of the Louisiana Department of Wildlife and Fisheries, P. O. Box 98000, Baton Rouge, Louisiana 70898-9000, (225)765-2800 on the proposed project.
13. Any other relevant information, including information on hydrology and hydraulics.

Address PCNs and inquiries regarding proposed activities to the appropriate district office (see Appendix B for district boundaries):

Fort Worth District: Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-PER-R, 819 Taylor Street, Room 3A37 (physical address), P.O. Box 17300 (mailing address), Fort Worth, TX 76102-0300, or telephone the Regulatory Branch at (817)978-2681

Albuquerque District: El Paso Regulatory Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESPA-OD-R, Building 6380, Morgan Road (physical address), P.O. Box 6096 (mailing address), Fort Bliss, TX 79906-0096, or telephone the Regulatory Office at (915) 568-1359

Tulsa District: Regulatory Branch, U.S. Army Corps of Engineers, Tulsa District, ATTN: CESWT-PE-R, 1645 South 101st East Avenue (physical and mailing address), Tulsa, OK 74128-4609, or telephone the Regulatory Branch at (918) 669-7400

EVALUATION AND VERIFICATION PROCEDURES

For all discharges within the habitat types or areas listed below, the USACE will coordinate with the resource agencies as specified in the Nationwide Permit (NWP) general conditions on notification (currently General Condition 13(e), *Federal Register* Vol. 65, No. 47, Thursday, March 9, 2000). The habitat types and areas are:

1. 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* sp.), sundews (*Drosera* sp.), and sphagnum moss (*Sphagnum* sp.);
2. 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); and
3. the area of Caddo Lake within Texas that is designated as a "Wetland of International Importance" under the Ramsar Convention.

For activities not requiring a PCN, construction may commence when the applicant can ensure that all terms and conditions of this RGP can be met. For activities requiring a PCN, construction may commence only upon written notification by the District Engineer, or his/her designee, that the project meets the terms and conditions of the RGP. In all cases requiring a PCN, 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.

It is the applicant's responsibility to ensure that the authorized structures and activities 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 can be considered for authorization by individual permit.

This permit 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. 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 permit's expiration, modification, or revocation, unless discretionary authority has been 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 :

Gordon M. Wells
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Raymond G. Midkiff
Lieutenant Colonel, Corps of Engineers
District Engineer
Albuquerque District

Robert L. Suthard, Jr.
Colonel, Corps of Engineers
District Engineer
Tulsa District

APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT

EXPLORATION AND PRODUCTION WELLS

1. In verifying authorization under this 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 any local permits required 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. Any 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 the interference with any existing or proposed Federal project, and the permittee shall not be entitled to compensation for damage or injury to the structures or activities authorized herein which 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 understand and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

10. 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 mast-producing trees such as oaks and hickories.
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 being performed is in accordance with the terms and conditions prescribed herein.
12. Permittees must evaluate the effect of activities 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 which 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.
13. Materials to be placed into waters of the United States are restricted to clean native soils obtained at the site and concrete, sand, gravel, rock, and other coarse aggregate and must be free of contaminants. All material used shall be of suitable quality and free of toxic pollutants in toxic quantities. Discharges of drilling muds, drill cuttings, and produce brine into waters of the State of Louisiana must have the appropriate authorization from the Louisiana Department of Environmental Quality.
14. Permittees shall use and maintain appropriate erosion and siltation controls in effective operating condition during construction, and permanently stabilize all exposed soil at the earliest practicable date.
15. 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.
16. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.
17. 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 for 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.
18. 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.
19. Permittees shall not restrict or impede the passage of normal or expected high flows unless the primary purpose of the fill is to temporarily impound water.
20. Permittees shall properly maintain any structure or fill, including maintenance to ensure public safety.
21. Permittees shall ensure that projects have no more than minimal adverse impacts on public water supply intakes.

22. Stream channelization is not authorized under this permit and stream realignment is limited to a maximum of 500 feet.
23. Permittees shall avoid and minimize discharges of dredged or fill material into waters of the United States through the use of practicable alternatives.
24. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
25. Permittees shall remove all excess material 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 fills and/or structures shall be returned to preconstruction conditions or better, including revegetation with native plants. All material removed must be disposed of at an upland site well removed from any water of the United States, including wetlands, and contained so as to preclude entry into such waters.
26. The discharge of 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 is not authorized. Any material not used for permanent structures or fill must be removed to an upland site.
27. The use of a jet barge or similar equipment for trench excavation is not authorized.
28. Permittees shall mark structures or fills in navigable waters, when appropriate, so that their presence will be known to boaters.
29. Permittees shall not conduct 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.
30. Discharges of dredged or fill material into a component of the National Wild and Scenic River System are not authorized.
31. For all discharges 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), the applicant 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/local/policy.htm.
32. For all projects to which Section 401 water quality certification by the Texas Natural Resource Conservation Commission (TNRCC) 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 TNRCC water quality certification requirements. Descriptions of the BMPs may be obtained from the TNRCC by calling (512)239-4422, 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 www.swf.usace.army.mil/regulatory/local/policy.htm. The TNRCC-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.

9 Temporary Vegetation

9 Blankets/Matting

9 Mulch

9 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.

9 Retention/Irrigation

9 Extended Detention Basin

9 Vegetative Filter Strips

9 Constructed Wetlands

9 Wet Basins

c. Sedimentation Control

Prior to project initiation, 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.

9 Sand Bag Berm

9 Silt Fence

9 Triangular Filter Dike

9 Rock Berm

9 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.

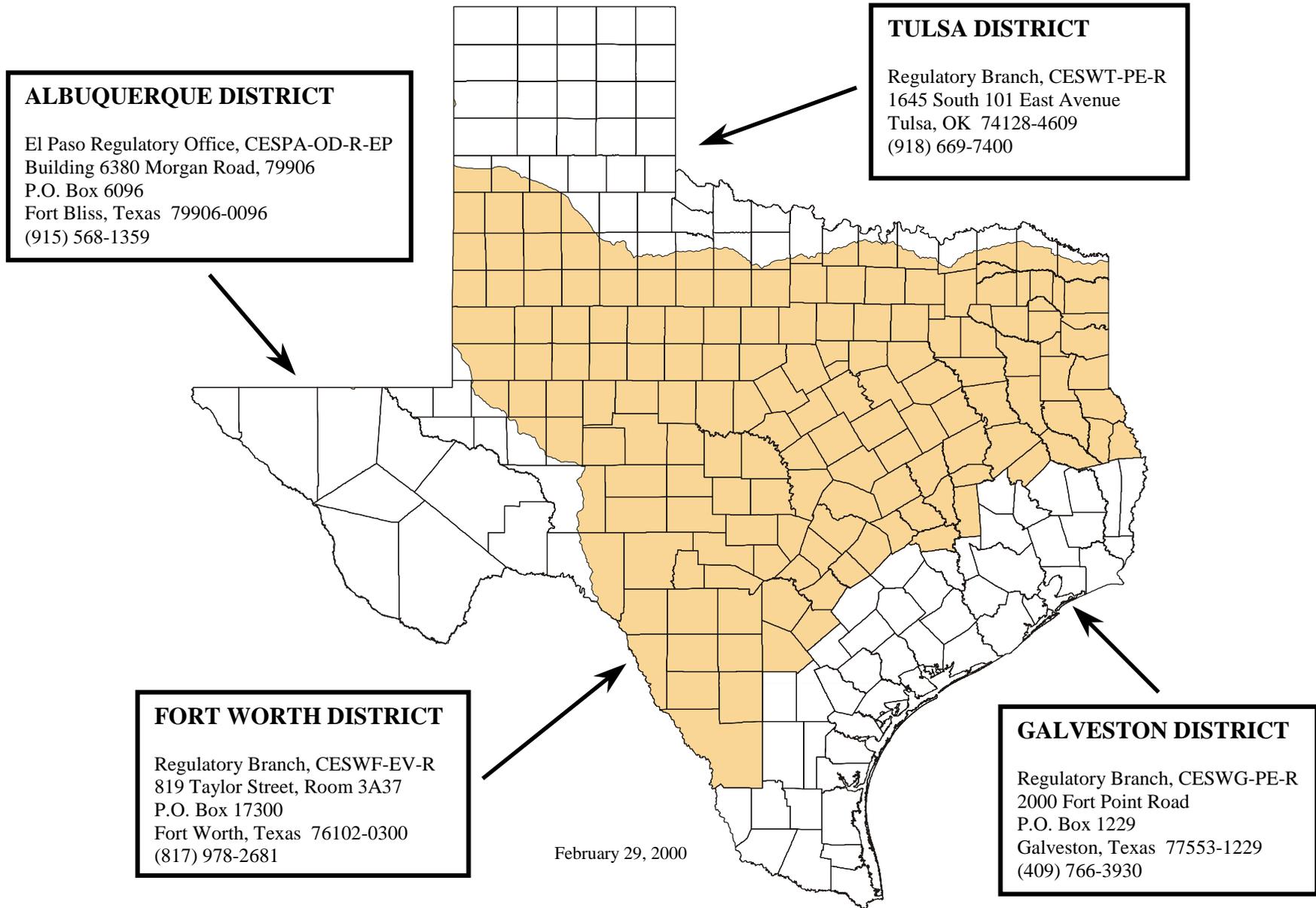
Hydraulically dredged material shall be disposed of in contained disposal areas. Effluent from contained disposal areas shall not exceed a TSS concentration of 300 mg/L.

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 TNRCC 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.

U.S. Army Corps of Engineers Districts within the State of Texas



APPENDIX C

NAVIGABLE WATERS OF THE UNITED STATES

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 United States that fall within the jurisdiction of the Fort Worth, Albuquerque, and Tulsa districts of the U.S. Army Corps of Engineers in the states of Texas and Louisiana. For information about the navigability of sections of these and other rivers that lie outside the jurisdiction of the Fort Worth, Albuquerque and Tulsa districts, please contact the appropriate U.S. Army Corps of Engineers district.

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.



RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

September 19, 2001

U S ARMY CORPS OF ENGINEERS
REGULATORY BRANCH (CESWF-EV-R)
P O BOX 17300
FORT WORTH TX 76102-0300
ATTN PRESLEY HATCHER

Re: Proposed Regional General Permit,
Exploration and Production Wells, CESWF-01-RGP-11
U.S. Army Corps of Engineers, Fort Worth District

Dear Mr. Hatcher:

The Railroad Commission of Texas (RRC) has examined the above referenced proposed permit in response to the public notice issued February 20, 2001. The RRC is the certifying agency for federal permits covering activities associated with the exploration, development, and production, including pipeline transportation, of oil, gas, or geothermal resources that may result in a discharge to waters of the U.S. This office did not directly receive any comments on the proposed permit, but did receive a copy of comments from the U.S. Environmental Protection Agency, Region 6, to your agency.

I have examined the proposed permit and identified no conflicts between the proposed permit and applicable state water quality laws with two small modifications.

First, under state 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 Railroad Commission of Texas, Oil and Gas Division. In Texas, EPA maintains NPDES permitting authority over oil and gas discharges regulated by the Texas Railroad Commission (See 63 FR 51164). Texas received NPDES program authorization only for those discharges covered by the authority of the Texas Natural Resource Conservation Commission (TNRCC). Under the federal law, these same discharges must be authorized, conditionally authorized, or specifically exempted by the U.S. Environmental Protection Agency.

Second, we recommend that language be included in the RGP to emphasize a preference for the use of closed mud systems in floodplains, particularly when an oil-based drilling fluid is to be used. This office is concerned with the greater likelihood for the overflow and discharge of drilling fluid from reserve pits or mud pits in floodplains. Therefore, we suggest that the permit include language requiring that closed mud systems shall be used where practicable, particularly for oil-based drilling fluids, at drilling sites located in floodplains.

D-1

My review indicates that, based on the information contained in the proposed permit and public notice, with the addition of language to the permit advising that a RRC permit may be required for any point source discharge of pollutants, and with addition of language concerning the use of closed mud systems in floodplains, there is a reasonable assurance that the activity will be conducted in a manner which will not violate any applicable water quality requirements. Therefore, certification of the referenced proposed permit for compliance with applicable water quality laws conditional on addition of the recommended language or some version thereof is hereby granted.

Please call me at (512)463-7308 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leslie Savage".

Leslie Savage, Water Quality Certification Coordinator
Oil & Gas Division

Cc: U.S. Army Corps of Engineers, Albuquerque District (via facsimile 915/568-1359)
U.S. Army Corps of Engineers, Tulsa District (via facsimile 918/669-7373)
Thomas Calnan, Texas General Land Office (via facsimile 475-0680)
Ronald Kitchens, Director of Energy Operations
Richard A. Varela, Director of the Oil and Gas Division
Stephen Halasz, Deputy Director of Environmental Services
Steve Seni, Assistant Director of Environmental Services
Jill Hybner, Deputy Assistant Director of Environmental Services
Larry Hanneschlager, Chemist, Environmental Services

Attachment 1 - Dredge and Fill Certification USACE Permit No. CESWF-01-RGP-11

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WORK DESCRIPTION: As described in the public notice dated February 20, 2001, and the final draft version e-mailed to the TNRCC on September 23, 2001.

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 application or joint public notice and shall expire five years from the date of issuance of 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 TNRCC 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 TNRCC or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the Corps of Engineers 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 Corps 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 TNRCC, Emergency Spill Response, at (512) 463-7727.
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 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

Attachment 1 - Dredge and Fill Certification

USACE Permit No. CESWF-01-RGP-11

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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 TNRCC, Emergency Spill Response, shall be contacted at (512) 463-7727. 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 stormwater from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Stormwater runoff from construction activities (US EPA Category X) is governed by the requirements of the US Environmental Protection Agency. Applications to apply for a general permit are to be obtained from Region 6, US EPA at (214) 665-7185.
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.

**Attachment 1 - Dredge and Fill Certification
USACE Permit No. CESWF-01-RGP-11**

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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.



State of Louisiana

Department of Environmental Quality



M.J. "MIKE" FOSTER, JR.
GOVERNOR

J. DALE GIVENS
SECRETARY

October 2, 2001

Department of the Army
Fort Worth District, Corps of Engineers
P. O. Box 17300
Ft. Worth, TX 76102-0300
Attn Presley Hatcher

RE: Corps of Engineers Permit (CESWF-01-RGP-11)
Water Quality Certification (WQC 010206-01)
All Parishes within the Ft. Worth District

Dear Mr. Hatcher:

The Department has received an application for the Corps of Engineers Regional General Permit (CESWF-01-RGP-11) for Exploration and Production Wells within the regulatory boundaries of the Ft. Worth district in the State of Louisiana.

The requirements for Water Quality Certification have been met in accordance with LAC 33:IX.1507.A-E. Based on the information provided in your application, we have determined that the placement of the fill material will not violate the water quality standards of Louisiana provided for under LAC 33:IX.Chapter 11. Therefore, the Department has no objection to this project.

Sincerely,

Jodi G. Miller
Environmental Scientist Manager
Registrations and Certifications Section

JGM/mvrb

OCT 11 2001

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APPENDIX E

MITIGATING ADVERSE IMPACTS TO WATERS OF THE UNITED STATES

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 impacts to the aquatic ecosystem. 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** is the restoration, enhancement, creation, or preservation of wetlands and other waters of the United States to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

Compensatory mitigation should replace those aquatic system functions that would be lost or impaired because of the proposed activity. The appropriate amount and type 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, 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. Such mitigation options as mitigation banking and in-lieu fee mitigation may be appropriate when on-site or other off-site compensatory mitigation options are not available or not practicable. 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.

Compensatory mitigation plans should include a thorough description of the proposed mitigation area; a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures; plan and cross-section drawings of pertinent work and structures; a statement explaining how adverse impacts to local hydrology will be minimized; and 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 requirements have been achieved. To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a deed restriction, is normally required.