



US Army Corps
of Engineers
Fort Worth District

Public Notice

Number: CESWF-99-RGP-2

Activity: Utility Lines and Outfall and Intake Structures

Date: February 7, 2000

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 101 East Avenue
Tulsa, OK 74121-0061
(918)669-7400

REGIONAL GENERAL PERMIT

UTILITY LINES AND INTAKE AND OUTFALL STRUCTURES

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 (CWA) 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 RGP are prohibited unless authorized by a separate permit.

This RGP has been designated CESWF-99-RGP-2 in the Fort Worth District, 199950040 in the Albuquerque District, and TXG3000011 in the Tulsa District. This RGP replaces Regional General Permit SWF-93-DISTRICT-RGP-2 in the Fort Worth District and TX-OYT-0491A in the Albuquerque District for Utility Lines and Intake and Outfall Structures, which expired on December 1, 1998. 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 and fill material into waters of the United States, including navigable waters of the United States, for the backfill and bedding of utility lines and the construction of intake and outfall structures, provided there will be no more than minimal adverse impact to the aquatic environment associated with the work, including any change in pre-construction contours or drainage patterns within affected waters of the United States. The area of waters of the United States that is disturbed must be limited to the minimum amount necessary to construct the utility line. Reasonable compensatory mitigation shall be required for unavoidable adverse impacts to waters of the United States. Activities that would have greater than minimal adverse impacts on the aquatic environment are not authorized by this regional general permit.

A "utility line" is defined as any pipe or pipeline for the transportation of a gaseous, liquid, liquefiable, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. The term "utility line" does not include activities or structures that drain a water of the United States, such as drainage tile, however, it does apply to pipes conveying drainage from another area.

Intake and outfall structures are not required to be directly related to a utility line to be authorized by this permit. These structures shall be constructed so as to prevent erosion of the bank below and to the sides of the structure. The construction of temporary coffer dams, equipment ramps, roads, and similar structures necessary for the construction of intake and outfall structures are also authorized by this permit.

This RGP authorizes mechanized land clearing necessary for the installation of utility lines, provided the cleared area is kept to the minimum necessary and there is no more than minimal adverse impact associated with the activity.

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 USACE 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.

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. All material used shall be of suitable quality and free of toxic pollutants in toxic quantities. Immediately upon completion of the construction of the utility line, all excess material and temporary structures must be removed to upland areas and any exposed slopes and stream banks must be stabilized.

CONDITIONS OF THE RGP

In addition to the limitations discussed in the scope of work, work authorized by this RGP is subject to the general conditions listed in Appendix A.

LOCATION OF WORK

The provisions of this regional general 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 map and list of navigable waters, Appendixes B and C), with the following exception:

From the Precinct Line Road crossing of the West Fork Trinity River in Tarrant County, Texas, to the State Highway 34 crossing of the Trinity River in Kaufman County, Texas, dredged material cannot be used for cofferdams, equipment ramps, or similar structures. Dredged material may only be used for backfill in those projects where the trench has been completely de-watered. In such cases, dredged material can only be used to within two feet of the top of the trench and must be covered by two feet of clean fill material. Material excavated from these sections of the river must be properly disposed of at an upland site and covered to prevent re-entry into the river or contamination of surface or ground water. The location of all disposal sites must be included in the application for authorization.

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 D) are followed.

The Railroad Commission of Texas (RRC) has certified pursuant to Section 401 of the CWA, for the activities for which it is responsible, that activities conducted under this RGP complies 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 (see Appendix D). The required language has been added.

The Louisiana Department of Environmental Quality (LDEQ) has certified pursuant to Section 401 of the CWA and the Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) that it is reasonable to expect that water quality standards of Louisiana will not be violated provided the fill material use is free of contaminants (see Appendix D).

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 (Texas). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
6. In the State of Texas, in accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure 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. 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 (RRC), Oil and Gas Division, 1701 North Congress Avenue, P. O. Box 12967, Austin, Texas 78711-2967.
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.
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. 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.

11. 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.

12. 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:** Stadium 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.

APPLICATION PROCEDURES

Applications for authorization under Regional General Permit CESWF-99-RGP-2 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 working hours. The information may be submitted on an Application for Department of the Army Permit form (ENG Form 4345) or in any other form convenient to the applicant. The description of the project must include at least the following information, as applicable:

1. A general description, including the purpose of, and need for, the project. Include the size of the pipeline or cable, the width of proposed trenches, width of the rights-of-way to be disturbed, and the need for outfall and intake structures, coffer dams, equipment ramps, borrow and disposal sites, access roads, and any other associated activities.
2. A large-scaled map showing the entire route of the project.
3. The proposed route of the utility line and any associated construction activities, such as borrow sites, disposal sites, access roads, etc., on 8½ by 11-inch copies of 7.5-minute United States Geological Survey (USGS) quadrangle maps, national wetland inventory maps, published soil survey maps, scaled aerial photographs, and/or other suitable maps. Identify all base maps, (e.g. "Fort Worth, Texas" 7.5-minute USGS quadrangle, Natural Resources Conservation Service Tarrant County Soil Survey sheet 10). Clearly mark (such as by circling) and number the location of each proposed utility line crossing of a water of the United States and any appurtenant structure(s) in waters of the United States on the map. Waters of the United States include streams and rivers and most lakes, ponds, mudflats, sandflats, wetlands, sloughs, wet meadows, abandoned sand and gravel mining and construction pits, and similar areas.

4. For each potential utility line crossing or appurtenant structure in a water of the United States, the following site specific information when applicable:

- a. 7.5-minute USGS quadrangle map name, Universal Transverse Mercator (UTM) coordinates, county or parish, waterway name;
- b. a brief characterization of the crossing area (stream, forested wetland, non-forested wetland, etc.) including the National Wetland Inventory classification and soil series;
- c. distance between ordinary high water marks;
- d. proposed method of crossing (bore, trench, etc.);
- e. length of proposed crossing;
- f. width of temporary and permanent rights-of-way;
- g. type, amount, and source of dredged or fill material proposed to be discharged;
- h. description and acreage of proposed temporary and permanent disturbances and associated adverse impacts to waters of the United States, including wetlands: and
- i. a typical cross-section.

5. 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.

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

7. A compensatory mitigation plan for unavoidable adverse impacts to the aquatic ecosystem, if appropriate. This plan shall 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).

8. For intake structures, the mesh size of the intake structure screen and the maximum water velocity at the intake screen. The maximum allowable mesh size of the intake structure screen is 0.25 inch and the maximum water velocity at the intake structure screen is 0.5 foot per second.

9. A statement disclosing whether or not 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.

10. The applicant should include any other relevant information, including available information on cultural resources and hydrology.

Construction may commence upon written notification by the District Engineer, or his designee, that the project appears to meet the conditions and provisions of the regional general permit. It is the applicant's responsibility to insure 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 regional general permit can be considered for authorization by individual permit.

Address applications and inquiries regarding proposed activities to the appropriate district office (see Appendix C):

Fort Worth District: Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-EV-R, P.O. Box 17300, 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: CESP-OD-R, P.O. Box 6096, 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 101 East Avenue, Tulsa, OK 74121-0061, or telephone the Regulatory Branch at (918) 669-7400

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 which 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 :

Wayne A. Lea
February 7, 2000

James S. Weller
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Thomas N. Fallin
Lieutenant Colonel, EN
District Engineer
Albuquerque District

Leonardo V. Flor
Colonel, U.S. Army
District Engineer
Tulsa District

APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT CESWF-99-RGP-2

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. Projects authorized by this RGP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. This RGP is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose; a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. This RGP does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. This RGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.
4. This RGP may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that such action would be in the public interest.
5. 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 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 being performed is in accordance with the terms and conditions prescribed herein.
11. The effect of activities on historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), shall be taken into account by the USACE 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 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 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. 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 using native vegetation to the maximum extent practicable.
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. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.
15. 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.

16. 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 unless the primary purpose of the activity is to temporarily impound water.
17. To the maximum extent practicable, permittees shall not permanently restrict or impede the passage of normal or expected high flows unless the primary purpose of the fill is to temporarily impound water.
18. Permittees shall properly maintain any structure or fill, including maintenance to insure public safety.
19. Permittees shall insure that projects have no more than minimal adverse impacts on public water supply intakes.
20. Stream realignment is not authorized.
21. Permittees shall avoid and minimize discharges of dredged or fill material into waters of the United States through the use of practicable alternatives.
22. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
23. Permittees shall remove all excess material and temporary structures to upland areas and stabilize all exposed slopes and stream banks immediately upon completion of construction.
24. The discharge of dredged or fill material into waters of the United States for the purpose of disposal into, or reclamation of, an aquatic area, such as a wetland, is not authorized. Any material not used for permanent structures must be removed to an upland site upon completion of the work.
25. The use of a jet barge or similar equipment for trench excavation is not authorized.
26. The water velocity at an intake structure screen shall be no greater than 0.5 feet per second and the mesh size of the intake structure screen shall be no greater than 0.25 inches.
27. Permittees shall mark outfall and/or intake structures, when appropriate, so that their presence will be known to boaters.

APPENDIX B

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 Texhoma upstream to Warrens Bend which is 7.25 miles northeast of Marysville, Texas, and from the U. S. Highway 71 bridge north of Texarkana, Texas, to the Oklahoma-Arkansas Border.

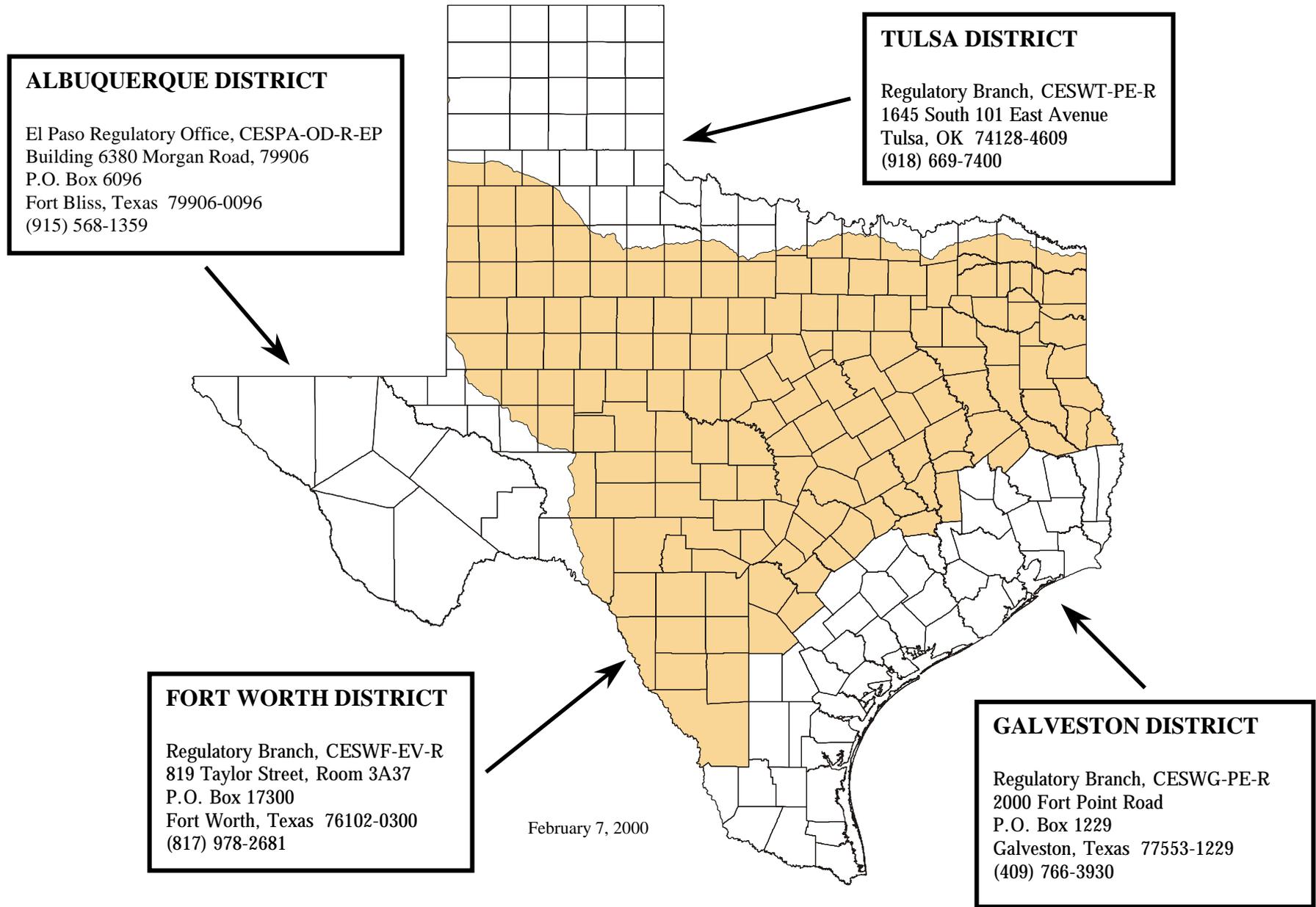
RIO GRANDE: From the Zapata-Webb county line upstream to the point of intersection of the Texas-New Mexico state line and Mexico.

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

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

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

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



APPENDIX D

Attachment 1 - Dredge and Fill Certification USACE Permit No. CESWF-99-RGP-2 August 20, 1999 Page 1 of 3

WORK DESCRIPTION: As described in public notice dated April 12, 1999.

SPECIAL CONDITIONS: None

GENERAL: This conditional 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-99-RGP-2
August 20, 1999
Page 2 of 3

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, riprapped, 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 or 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-99-RGP-2
August 20, 1999
Page 3 of 3

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.

TONY GARZA, CHAIRMAN
CHARLES R. MATTHEWS, COMMISSIONER
MICHAEL L. WILLIAMS, COMMISSIONER



RONALD L. KITCHENS
ACTING DIRECTOR, OIL AND GAS DIVISION
LESLIE SAVAGE
ASSISTANT DIRECTOR FOR ENVIRONMENTAL SERVICES

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

August 24, 1999

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, Utility Lines and Outfall and Intake Structures
CESWF-99-RGP-2, 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 April 12, 1999. 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 received no comments on the proposed permit.

I have examined the proposed permit and identified no conflicts between the proposed permit and applicable state water quality laws with one small modification. 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. My review indicates that, based on the information contained in the proposed permit and public notice and with the addition of language to the permit advising that a RRC permit may be required for any point source discharge of pollutants, there is a reasonable assurance that the activity will be conducted in a manner which will not violate any applicable water quality requirements. Therefore, the RRC hereby grants certification of the referenced proposed permit for compliance with applicable water quality laws conditional on addition of the recommended advisory notice.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Savage".

Leslie Savage, Assistant Director
Environmental Services

OCT 4 1999



State of Louisiana
Department of Environmental Quality



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

J. DALE GIVENS
SECRETARY

MAY 19 1999

WQC 990503-04

US Army Corps of Engineers, Fort Worth District
CESWF-EV-R
PO Box 17300
Fort Worth, TX 76102-0300

Attention: Regulatory Branch

Gentlemen:

RE: Proposal for authorization of the Regional General Permit, CESWF-99-RGP-2, for the discharge of dredged and fill material into waters of the United States, including navigable waters of the United States, for the backfill and bedding of utility lines and the construction of intake and outfall structures, provided there will be no more than minimal adverse impact to the aquatic environment associated with the work, including any change in pre-construction contours or drainage patterns within affected waters of the United States within the Fort Worth District.

This is to acknowledge that you have completed the requirements for Water Quality Certification for the above referenced proposal.

It is our opinion that the proposed project will not violate water quality standards of the State of Louisiana, therefore, we offer no objection to this project provided that the fill material used is free of contaminants.

In accordance with statutory authority contained in the Louisiana Revised Statutes of 1950, Title 30, Chapter 11, Part IV, Section 2074 A(3) and provisions of Section 401 of the Clean Water Act (P.L. 95-217), the Office of Water Resources certifies that it is reasonable to expect that water quality standards of Louisiana provided for the under Section 303 of P. L. 95-217 will not be violated.

Sincerely,

Linda Korn Levy, Assistant Secretary
Office of Water Resources

LKL:MVRB

c: Corps of Engineers, Fort Worth – CESWF-99-RGP-2

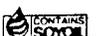
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MAY 24 1999



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OFFICE OF WATER RESOURCES P.O. BOX 32215 BATON ROUGE, LOUISIANA 70884-2215

AN EQUAL OPPORTUNITY EMPLOYER



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**, then, 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. 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 three 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, may be required.