



US Army Corps
of Engineers
Fort Worth District

Public Notice

Number: CESWF-98-SPGP-2

Activity: Activities Authorized by Lower Colorado River
Authority Lakewide Permits

Date: May 11, 1998

The purpose of this public notice is to inform you of the issuance of State Program General Permit CESWF-98-SPGP-2 on May 5, 1998. The permit will automatically expire on May 4, 2003, unless it is revoked, modified, or extended.

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

Regulatory Branch
U. S. Army Corps of Engineers
P. O. Box 17300
Fort Worth, Texas 76102-0300
(817)978-2681

Water Surface and Shoreline Mgmt
Lower Colorado River Authority
P. O. Box 220
Austin, Texas 78767-0220
(800)776-5272, extension 3281

STATE PROGRAM GENERAL PERMIT

ACTIVITIES AUTHORIZED BY LOWER COLORADO RIVER AUTHORITY LAKEWIDE PERMITS

Interested parties are hereby notified that, in accordance with 33 CFR 322.2(f), 323.2(h), and 325.2(e) published in the Federal Register November 13, 1986, the Fort Worth District of the U. S. Army Corps of Engineers (USACE) authorizes the work described herein by state program general permit (SPGP) pursuant to Section 404 of the Clean Water Act (CWA).

The purpose of this SPGP is to expedite authorization of minor, recurring work. This SPGP 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 SPGP does not guarantee authorization of the work under this SPGP. 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 SPGP are prohibited unless authorized by a separate permit.

SCOPE OF WORK:

Work authorized by this SPGP is limited to discharges of dredged and fill material into waters of the United States, excluding wetlands, associated with activities specifically authorized by the Lower Colorado River Authority (LCRA) in a lakewide permit during planned lake drawdowns and other events that leave lake levels 5 feet or more below the when full elevation of the lake. Lakewide permitted activities eligible for authorization are:

1. Maintenance dredging of up to 500 cubic yards of material below the when full elevation of the lake (currently 681 feet National Geodetic Vertical Datum (NGVD) at Lake Travis, 738 feet NGVD at Lake Marble Falls, 825 feet NGVD at Lake Lyndon B. Johnson, 888.22 feet NGVD at Inks Lake, and 1020.35 feet NGVD at Lake Buchanan) to maintain access, use, and navigability of lake waters provided no dredged material is placed temporarily or permanently into a water of the United States; dredged areas are gradually sloped downward from the shoreline so as to blend the newly dredged area into the existing channel bottom contour and dredged areas must be smoothed to prevent any irregular surfaces or cuts that might collapse or erode; dredged areas are maintained so as not to allow water to become isolated from the remainder of the lake; dredged material obtained from areas near marine service stations, boat refinishing or repair operations must be disposed of at approved disposal sites for this type of material in accordance with all applicable local, state, and federal laws and regulations. If dredged material is placed on land which drains into any water of the United States, temporary erosion controls, such as silt fences, must be used around the material until the material is stabilized by permanent vegetation. No dredging is authorized that is either more than 10 feet below the normal or conservation pool elevation of the lake or below the original or previously dredged bottom elevations.

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

3. Repair of existing retaining walls and bulkheads, including the placement of up to 2 cubic yards per running foot of 8- to 10- inch diameter rock riprap at the base of the structure, provided the work otherwise complies with the requirements of USACE nationwide permit 3 for maintenance, USACE nationwide permit 13 for bank stabilization, or USACE, Fort Worth and Albuquerque Districts regional general permit 8 (CESWF-96-RGP-8) for boat ramps and minor facilities. (For copies of the nationwide permits or regional general permit 8, reference Federal Register, Vol 61, No. 241, Friday, December 13, 1996, see the Internet at <http://www.swf.usace.army.mil/> or contact Water Surface and Shoreline Management, Attention: Dredge and Fill, Lower Colorado River Authority, P. O. Box 220, Austin, Texas 78767-0220 or telephone (800)776-5272, extension 3281.)

LOCATION OF WORK:

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

CONDITIONS OF THE SPGP:

In addition to limitations discussed in the scope of work, projects authorized by this SPGP are subject to the general conditions contained in Appendix B.

WATER QUALITY CERTIFICATION:

The Texas Natural Resource Conservation Commission has certified that discharges authorized by this SPGP should not result in a violation of established Texas Water Quality Standards under Section 401 of the Clean Water Act and Title 30 Texas Administrative Code, Chapter 279 provided the standard provisions in Appendix C are followed.

AUTHORIZATION FROM OTHER AGENCIES:

The permittee is responsible for obtaining any additional federal, state, or local permits that may be required, which include, but are 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, (512)389-4433. 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, (512)475-1581 must have prior approval from that office. The placement of structures onto state-owned stream beds in Texas may require an easement from the GLO.
3. 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.
4. Activities such as clearing, grading, and excavation that would disturb five or more acres of land may require a National Pollutant Discharge Elimination System 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, (800)245-6510 or (214)665-7530.
5. 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, (512)239-6695.
6. 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.

COMPLIANCE PROCEDURES:

The permit applicant must possess a valid lakewide permit from LCRA prior to the start of work. LCRA will provide a copy of this SPGP with each lakewide permit issued. It is the applicant's responsibility to insure that the construction is in compliance with all terms and conditions set forth herein. Please pay particular attention to general conditions 10 and 15, which require approval from the USACE before work begins in certain cases involving potential effects to cultural resources and endangered species, respectively. Failure to abide by these conditions invalidates the authorization and constitutes a violation of the Clean Water Act. Provided these conditions are met, work may begin without additional administrative procedures from this office except in those special situations discussed below. Projects beyond the scope of this SPGP may be considered for authorization by individual permit.

In order for this SPGP to remain in effect, LCRA must:

1. provide a report of the number of verifications of authorization of activities under this SPGP for the periods January 1 - March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31 of each year within five days of the end of the period and
2. provide an annual report by March 1 of each year for the period from January 1 to December 31 of the previous year, beginning in 1999, summarizing the issuance of and compliance with lakewide permits and the SPGP during that period, and addressing such matters as: who has been authorized to do work; the scope of the work accomplished; when work was accomplished; and compliance with the scope and conditions of this SPGP, including particularly compliance with conditions on cultural resources and endangered species.

Address requests for, and inquiries concerning information about, LCRA lakewide permits to:

Water Surface and Shoreline Management, Attention: Dredge and Fill, Lower Colorado River Authority, P. O. Box 220, Austin, Texas 78767-0220 or telephone (800)776-5272, extension 3281.

Address inquiries about this SPGP to:

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 (817)978-2681.

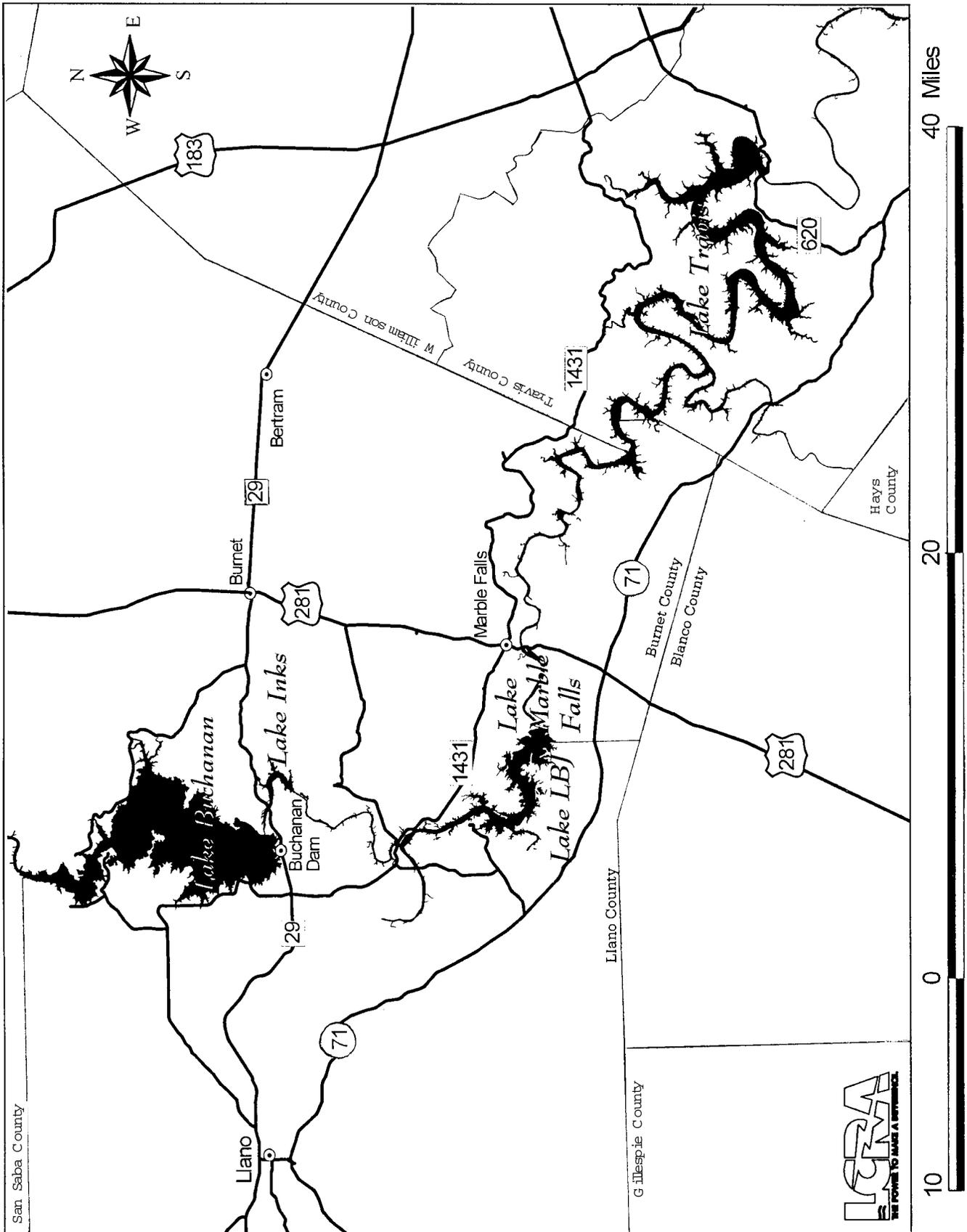
This SPGP shall become effective on the date of the signature of the District Engineer, or his authorized representative, and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Activities authorized under this SPGP that have commenced (i.e., are under construction), or are under contract to commence, in reliance on this permit, will remain authorized provided the activity is completed within twelve months of the expiration, modification, or revocation of the permit, unless discretionary authority has been exercised by the USACE on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:
FOR THE DISTRICT ENGINEER:



James S. Weller
Lieutenant Colonel, Corps of Engineers
District Engineer

APPENDIX A LOCATION OF WORK



APPENDIX B

GENERAL CONDITIONS

"State Program General Permit, Activities Authorized By Lower Colorado River Authority Lakewide Permits"

1. In verifying authorization under this SPGP, the Department of the Army relies in part on the information provided by the permittee. If that 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 SPGP 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 SPGP should not be considered as an approval of the design features of any authorized project or an implication that such is considered adequate for the purpose intended; 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 SPGP does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. Nor does it relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a regulatory floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.
4. This SPGP 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 SPGP 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. Permittees shall not cause any unreasonable interference with navigation by the existence or use of the permanent and temporary structures authorized by SPGP using this procedure.
8. Permittees shall make every reasonable effort to conduct the activities authorized by SPGP 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.

9. 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 under the SPGP is in accordance with the terms and conditions prescribed herein.

10. The permittee shall take into account the impact of activities authorized by this SPGP on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP), prior to the initiation of work. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest which occur in the permit area. The permittee shall notify the District Engineer, if a known cultural resource site would be encountered and shall not begin work in the permit area until the requirements of 33 CFR Part 325, Appendix C have been satisfied. If a previously unknown cultural resource site is encountered during work authorized by this SPGP, the permittee shall immediately contact 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.

11. 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.

12. Permittees shall remove all temporary fills in their entirety.

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. Authorization is not granted for an activity that is 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 an activity that is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

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

16. Permittees shall properly maintain any structure or fill, including maintenance to ensure public safety.

17. Permittees shall address any potential adverse impacts of the discharge of dredged or fill material to public water supply intakes.

18. Stream realignment is not authorized.
19. Permittees shall avoid and minimize discharges of dredged or fill material into waters of the United States through the use of practicable alternatives.
20. To the maximum extent practicable, permittees shall not permanently restrict or impede the passage of normal or expected high flows.
21. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
22. This SPGP does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

APPENDIX C

Attachment 1 - Dredge and Fill Certification
USCOE Permit No. CESWF-98-SPGP-2
February 27, 1998
Page 1 of 3

WORK DESCRIPTION: As described in public notice dated December 31, 1997.

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 5 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. 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 particulate materials.

Attachment 1 - Dredge and Fill Certification
USCOE Permit No. CESWF-98-SPGP-2
February 27, 1998
Page 2 of 3

7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.
8. Dredged Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the 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.

Attachment 1 - Dredge and Fill Certification

USCOE Permit No. CESWF-98-SPGP-2

February 27, 1998

Page 3 of 3

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.
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.