

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT

Permittee General Public

General Permit Number SWG-1998-02413

Issuing Office U.S. Army Corps of Engineers, Galveston District (Corps)

Project Description: To install below navigable waters, including wetlands, pipelines by directional drilling. Specific depth requirements are dependent on the type of water.

Directionally Drilled Pipelines Below Deep Federal Draft Channels:

Pipelines placed beneath deep draft project channels shall be placed a minimum of 20 feet below the authorized project depth of the channel. However, in cases where the natural bottom of the waterway is more than 20 feet below the authorized project depth, the pipeline will be placed a minimum of 5 feet below the natural bottom. Pipelines will be placed at the greatest depth, which meets the above requirements over the entire channel bottom width, plus a distance of 50 feet on each side of the channel measured normal to the centerline. A gradient of the pipeline under the slopes must be no steeper than the theoretical side slope. See Figure 1.

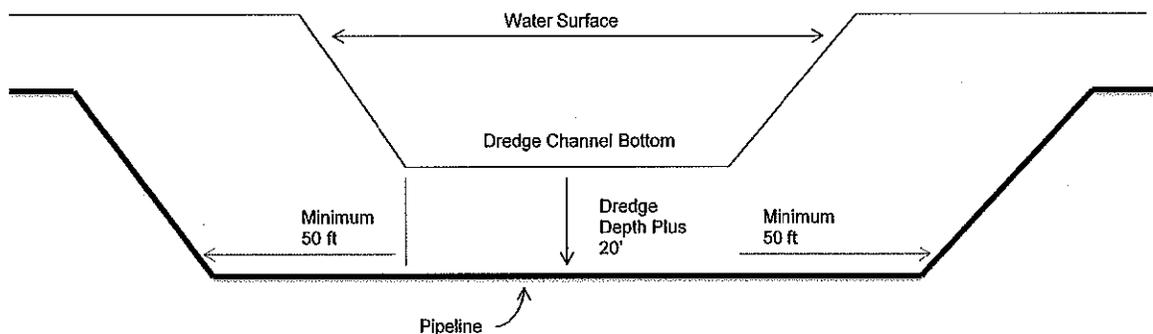


Figure 1. Typical schematic for Deep Draft Channels demonstrating pipeline placement requirements.

Directional Drilling Pipelines Below Shallow Draft Federal Channels:

For the Gulf Intracoastal Waterway and other shallow draft project channels, the pipelines shall be 10 feet below the dredged depth of the channel. However, in cases where the natural bottom of the waterway is more than 10 feet below the dredged depth they will be placed a minimum of 5 feet below the bottom. For pipelines placed beneath the main channel of the Gulf Intracoastal Waterway from Sabine River to Brownsville the minimum placement shall be a of 25 feet below mean low tide or 10 feet below the dredged depth, whichever is greater. Pipelines shall be placed at the greatest depth which meets the above requirements over the entire channel bottom width plus a distance 12.5 feet on each side of the channel measured normal to the centerline. A gradient of the pipeline under the side slopes must be no steeper than the theoretical channel side slope. See Figure 2

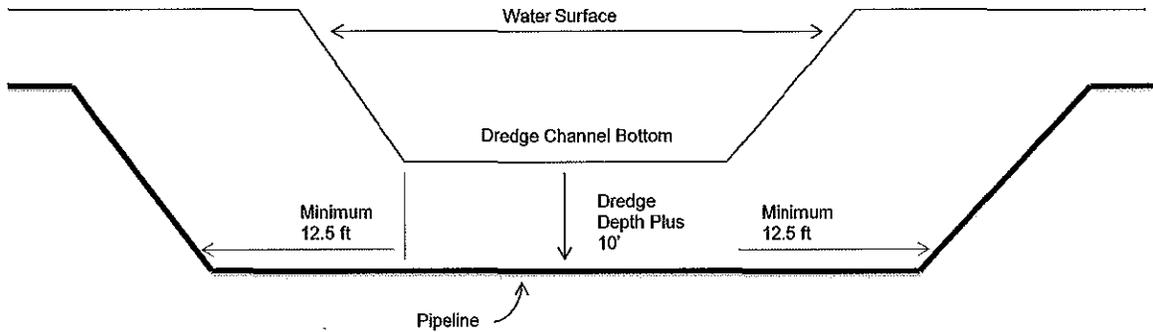


Figure 2. Typical Schematic for Shallow Draft Channels demonstrating pipeline placement requirements.

Private Channels and Open Bay:

Pipelines placed beneath private channels or open bay shall be placed a minimum depth of 5 feet. The gradient of the pipeline under the slopes must be no steeper than the theoretical side slope of the private channel. See Figure 3

Figure 3 Private Channels and Open Bay

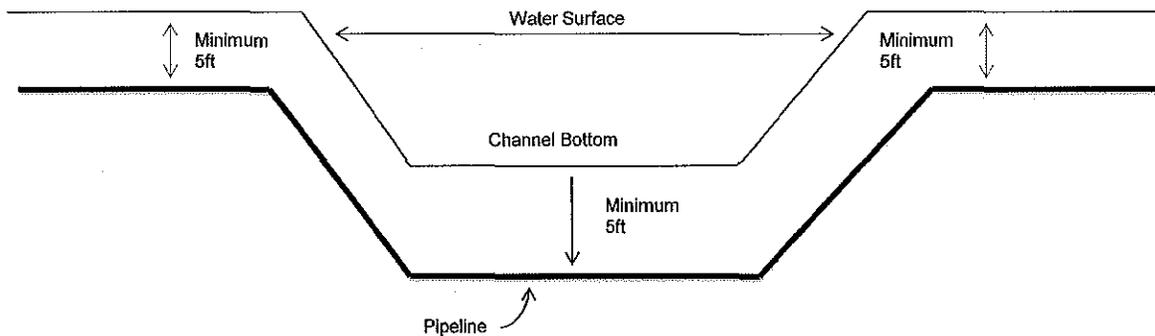


Figure 3. Typical schematic for Private Channels and Open Bays demonstrating pipeline placement requirements.

Navigable Rivers and Streams Without Maintained Channels

Pipelines placed beneath navigable rivers and streams that do not have a maintained channel shall be placed 10 feet below the thalweg depth of the river or stream. Pipelines shall be placed at the greatest depth which meets the above requirements over the entire channel bottom width plus a distance 12.5 feet on each side of the stream channel measured from the ordinary high water mark of the stream or river. See Figure 4.

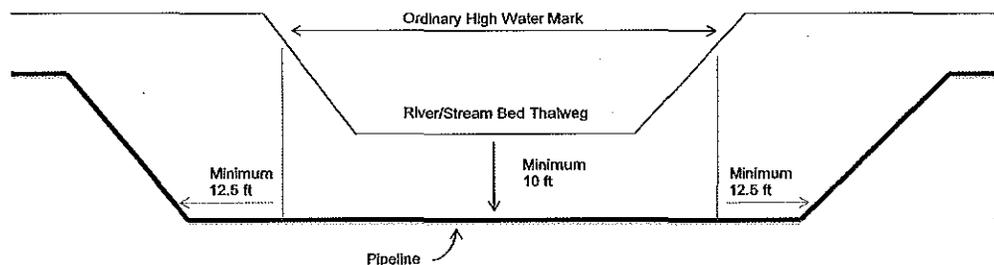


Figure 4. Typical schematic for Navigable Rivers and Streams without channels demonstrating pipeline placement requirements.

Project Location: This General Permit is applicable in all navigable waters of the United States located within the within Galveston District, excluding the State of Louisiana.

Permit Conditions:

1. This General Permit will expire on **1 January 2019**. If the work authorized by a specific site approval is not started within 1 year, or if it is not completed within 2 years from its approval date, the authorization, if not previously revoked or specifically extended, shall automatically expire.
2. All applicants shall notify the U.S. Army Corps of Engineers, Galveston (Crops), Texas and the U.S. Coast Guard, New Orleans, Louisiana prior to commencing of work in waters of the United States, including wetlands. The applicant will be notified in writing upon approval of the proposed activity. The notification to the Corps shall include:
 - a. A completed and signed DA application (Form ENG 4345).
 - b. A copy of all DA authorizations previously issued for the work area.
 - c. A vicinity map, plan view, typical cross section, and a description of the proposed method of construction. Drawings shall include:
 - i. A vicinity map with the precise location of the project so that its geographic coordinates can be determined.
 - ii. A plan view of the entire pipeline route and a separate plan view identifying the including entrance and exit location, any navigable channels in the immediate project vicinity and all appurtenances required for its installation.
 - iii. A cross section drawing showing applicable dimension of the existing water and dimensions of all channel bottom, channel slope, mean low water depth, mean high tide depth, ordinary high water mark, thalweg, burial depth of pipeline, navigation channels and entry and exit locations.
 - iv. Mapped location of any special aquatic resources (i.e. oyster reefs, sea grass, wetlands, etc.) located within 100 feet of any portion of the proposed project. The size of each special aquatic resource and its distance edge of the project boundary must be depicted on this map
 - d. A statement that the work will be conducted in compliance with the terms and conditions of this GP.
 - e. A statement of estimated start and completion dates.
3. The permittee shall notify the Corps, in writing, of the date that the work authorized herein commences.
4. The permittee must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with Permit Condition 6 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
5. When structures or work authorized by this permit are still in existence at the time they are transferred to new ownership, the permittee must obtain and submit to the Corps a signed statement from the new owner(s) stating that they agree that the terms and conditions of this permit will continue to be binding on the new owner(s).

6. No structure or fill that may affect historic properties listed or eligible for listing in the National Register of Historic Places is authorized until the Corps and applicant has complied with the provisions of Section 106 of the National Historic Preservation Act.
7. The Corps will review all proposed activities for cultural resources requirements, and, when appropriate, coordinate these activities with the Texas Historical Commission (THC). If potential historic properties are located in the project area, they shall be avoided by a sufficient margin as designated by the Corps and the THC. If avoidance of the potential historic properties is not feasible, further archeological investigations shall be required.
8. If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, you must immediately cease and desist and notify this office of what you have found. The Corps will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
9. No structure or fill will be authorized that is likely to jeopardize the continued existence of a threatened or endangered species or which is likely to destroy or adversely modify critical habitat of such species as identified under the federal Endangered Species Act.
 - a. All structures, construction equipment and pipelines must maintain a distance of 1,000 feet from Piping Plover (*Charadrius melodus*) habitat.
 - b. For projects located in Aransas, Copano, St. Charles, Mesquite, San Antonio, Espiritu Santo & Matagorda Bays or an secondary or tertiary bay of these systems:
 - i. Coordination with the U.S. Fish and Wildlife Service Corpus Christi Ecological Field Office must be completed prior to application to consider potential impacts to the federally listed, endangered whooping cranes (*Grus americana*).
 - ii. All activities, including routine maintenance, are prohibited from October 15th to April 15th to protect whooping cranes which winter in the Aransas National Wildlife Refuge area. Activities seeking authorization during this timeframe may seek a standard permit from the Corps. Monitoring of authorized structures and response to oil spill are not prohibited.
 - iii. All permanent structures in whooping crane habitat areas must be no greater than 15 feet in height.
10. No work shall be performed within 1,500 feet of the shoreline of any eastern brown pelican colonies between February 1st and October 31st.
11. To minimize impacts to migratory bird nesting, no work shall be performed within 1000 feet of the shoreline of any bird nesting island (rookery) between February 15th and September 1st.
12. No impact to seagrasses, oyster reefs, or other special aquatic sites, such as wetlands or mudflats, is authorized by this General Permit.
13. If the determination is made that the adverse effects of the proposed work are more than minimal, then the applicant will be notified that either: (1) That the project does not qualify for authorization under the GP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the GP subject to the applicant's submission of an approved mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the GP with specific modifications or conditions.

14. The permittee must allow representatives from the appropriate Corps office to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of the permit.
15. No structures or fill will be allowed to obstruct any navigation channels or impact any federal properties.
16. The permittee understands 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.
17. When structures or work authorized by this permit are determined by the District Engineer to have become abandoned, or obstructive to navigation, or cease to be used for the purpose for which they were permitted, such structures or other work must be removed and the area cleared of all obstructions, and written notice given to the Chief of Compliance, Galveston District Regulatory Branch within 30 calendar days of completion.
18. Aids to navigation will be permitted and placed in accordance with United States Coast Guard Regulation 33 C.F.R. 66.
19. The permittee shall obtain all necessary certifications from all appropriate Federal, State and local government agencies and, additionally, shall be subject to any government regulation or requirements when applicable.
20. Prior to construction activities, the permittee shall locate and identify all existing pipelines in the immediate vicinity of the proposed work and shall notify the owner of such pipelines of the planned activity.
21. All work authorized herein does not authorize any disturbance to adjacent wetlands, submerged vegetation, and reefs during the installation of pipelines.
22. All areas impacted by the placement of pipelines and associated activities shall be restored to pre-project conditions.
23. All pipelines crossing Federal project channels shall be identified by signs in accordance with the following minimum requirements.
 - a. The signs shall be placed a minimum of 50 feet beyond the beacon lines in bays and in landlocked channels. The signs shall be placed on both sides of the channel.
 - b. The signs shall be placed parallel to the channel and supported on two single piles with at least 2-inch butts, one on each side of the pipeline.
 - c. The signs shall have lettering of sufficient size that can be read easily from the center of channel by a person with normal vision.

24. All pipelines crossing Federal project channels will contact the Real Estate Division of the U.S. Army Corps of Engineers, Galveston for required approvals prior to performing the work.
25. Individual actions under this permit shall be reviewed for potential impacts to historic properties. If sites listed on, or eligible for the National Register of Historic Places exist within the permit area, coordination with the State Historic Preservation Office and Advisory Council on Historic Preservation will take place in accordance with 36 C.F.R. 800 and 33 C.F.R. 325, Appendix C. That as-built drawings certified by a professional engineer or registered surveyor shall be provided to the appropriate area office within 30 days after placement of the pipeline. Such drawings shall indicate the exact location (e.g. Corps of Engineers Channel Station Number) and installed depth of the authorized pipelines.
26. It is required that all pipelines placed beneath any project channel be placed so that they are perpendicular to the centerline of the channel. In addition, all pipelines will be in a corridor not more than) 50 feet wide, measured longitudinal with the centerline of the channel. All corridors will be no closer than 1,000 feet to one another.

NOTE: For this General Permit a Shallow Draft Channel is a channel with project depths less than 25 feet (mean low tide) and a Deep Draft Channel is a channel with project depths of 25 feet or over (mean low tide).

Further Information:

I. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. Authorization under this General Permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. Authorization under this General Permit does not grant any property rights or exclusive privileges.
- c. Authorization under this General Permit does not authorize any injury to the property or rights of others.
- d. Authorization under this General Permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing a project under this General Permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

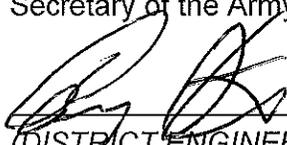
4. Reliance on Applicant's Data: The determination of this office to authorize the activity under this General Permit as not contrary to the public interest will be made in reliance on the information provided by the applicant.

5. Reevaluation of Permit Decision. This office may reevaluate its decision to authorize an activity under this General Permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. The applicant fails to comply with the terms and conditions of this permit.
- b. The information provided by the applicant to support their permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contain 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the applicant to comply with the terms and conditions of their authorization under this General Permit and for the initiation of legal action where appropriate. The applicant will be required to pay for any corrective measures ordered by this office, and if they fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you the applicant for the cost.

This General Permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)
CASEY CUTLER, CHIEF
POLICY ANALYSIS SECTION
FOR COLONEL RICHARD P. PANNELL



(DATE)