
Public Announcement



October 21, 2009

**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 6
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

INTRODUCTION: Notice is hereby given of a Permit Evaluation Requirement Process (Process) effective as of **November 1, 2009** for all proposed and existing permits within the identified Area of Concern until further notice. The Area of Concern and Process is summarized in Attachment A.

BACKGROUND: On March 19, 2008, the EPA placed the San Jacinto River Waste Pits Superfund Site (Site) on the National Priorities List. This event marks the beginning of several steps that the EPA will be taking to clean up the Site thru the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River.

Due to the Site being partially located in the San Jacinto River, area permitted activities, issued under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers & Harbors Act of 1899 (RHA) may impact the Site. Those permitted activities that impact the Site may expose permittees to CERCLA liability. To minimize permittee exposure to CERCLA liability and to continue to effectively evaluate proposed and permitted activities, an interagency workgroup between U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers (USACE), and Texas Commission on Environmental Quality (TCEQ) developed a Process, which all permit applicants and existing permittees within the area of concern must undertake.

In summary, as part of the Process, all permit applicants and existing permittees within the area of concern must conduct certain sampling events to ensure that any activities conducted, especially activities involving dredging or disposal of dredged materials, do not impact Site investigation and cleanup.

The verification of such sampling events and adherence to the Process will be completed by TCEQ. The issuance of permits for work and/or activities regulated under Section 10 of the RHA and/or Section 404 of the CWA, with any associated special conditions (if necessary), will be completed by USACE.

Questions concerning the Process should be addressed to: Mr. Stephen Ellis, Project Manager, Superfund/SSDAP Section, Remediation Division, Texas Commission on Environmental Quality, 12100 Park 35 Circle, Austin, TX 78753, phone: (512) 239-5337, email: stellis@tceq.state.tx.us

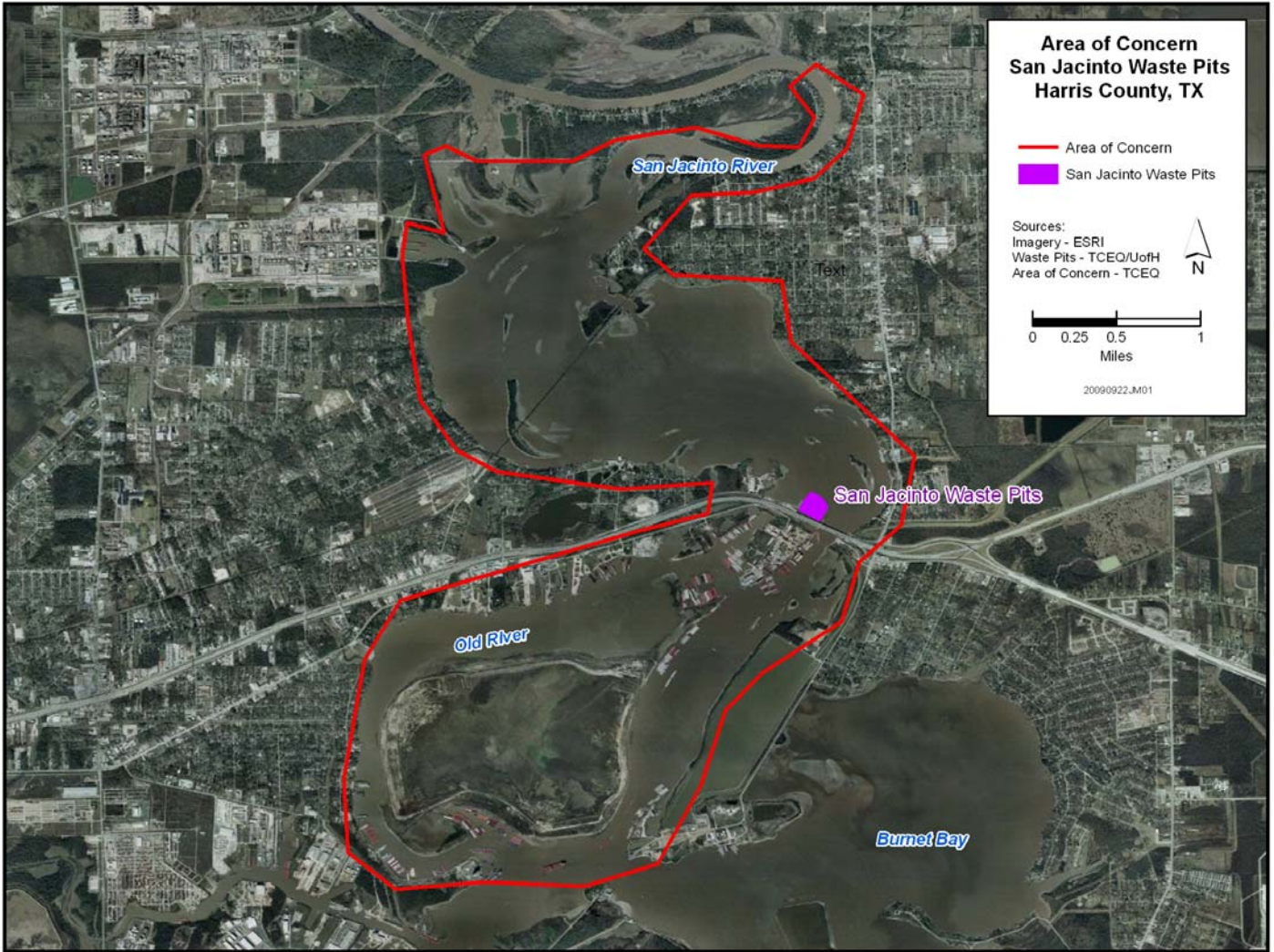
Questions concerning the permits issuance should be addressed to: Ms. Felicity Dodson, Project Manager, U.S. Army Corps of Engineers, Galveston District, 2000 Fort Point Road, Galveston, TX 77550, phone: (409) 766-3105, email: felicity.a.dodson@usace.army.mil

Questions concerning the National Priorities List, the Site, or steps involved in a Superfund site cleanup should be addressed to: Mr. Donn Walters, Regional Community Relations Liaison, U.S. Environmental Protection Agency, 1445 Ross Ave, Dallas, TX 75202, phone: (214) 665-6483, email: walters.donn@epa.gov

Questions concerning CERCLA liability should be addressed to: Ms. Barbara Nann, Assistant Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Ave, Dallas, TX 75202, phone: (214) 665-2157, email: nann.barbara@epa.gov

PERMIT PRE-CONDITIONS AND CONDITIONS PROCESS

I. AREA OF CONCERN DESCRIPTION



Horizontal Datum Name: NAD 83

Ellipsoid Name: GRS 80

SOUTH of:

longitude -95.063977 latitude 29.833028

(line perpendicular to river channel from approximately 20400 Rio Villa Drive)

NORTH of:

longitude -95.086488 latitude 29.761463

(line of sight bearing from DeZavalla Point to south terminal of Lynchburg Ferry, then along ferry route to north terminal).

II. PRE-CONDITIONS AND CONDITIONS PROCESS

II.A. PERMIT PRE-CONDITIONS PROCESS

TCEQ shall verify the fulfillment of the pre-conditions process (sections II.A.1. to II.A.4.) and certify to USACE the resulting conditions to be integrated into the permit (section II.A.5.).

II.A.1. Required Sampling Procedures

- SOP 1.4- Management of IDW
- SOP 1.5- Decontamination
- SOP 6.1- Documentation
- SOP 6.2- Homogenization of Soil Samples
- SOP 6.4- Sample Handling and Control
- SOP 8.1- Surface Water Sampling Using the Direct Method
- SOP 9.1- Sediment Sampling
- SOP 17.1-GPS Data Collection and Submission

II.A.2. Required State of Texas Lab Certification

- NELAC standard and accreditation process:
<http://www.nelac-institute.org/docs/2003nelacstandard.pdf>
- Current list of accredited labs:
http://www.tceq.state.tx.us/assets/public/compliance/compliance_support/qa/txnelap_lab_list.pdf

II.A.3. Required Sample Number & Distribution

II.A.3.1. Sample Number: A minimum of two samples (one vertical composite sample and one post-dredged surface sample) shall be submitted per 5,000 cubic yards of total planned dredged volume (including any planned overdredges or advanced maintenance).

- Post-dredged surface sample (ie- representing the sediment to be exposed by the dredging) equates to one discrete sample that represents the 6” section immediately below the planned dredged depth in the same location(s) as determined in section II.A.3.2.

II.A.3.2. Sample Distribution: Samples identified in section II.A.3.1. shall be distributed evenly across the total planned dredged area.

II.A.4. Required Sample Analysis

- Laboratory sample analysis shall be via EPA 1613, EPA 8280b, or EPA 8290a.
- Laboratory results shall be reported as TEQ and TCDD organic carbon normalized or TCDD non-organic carbon normalized.
- Laboratory shall use WHO 2005 TEF to calculate TEQ.

II.A.5. Conditions Determination

- If sample >1000 ppt TEQ, then disposal of sample's representative volume (or dredged materials) shall be in a hazardous waste landfill.
- If sample >33 ppt TCDD organic carbon normalized and <1000 TEQ; or, >0.45 ppt TCDD non-organic carbon normalized and <1000 TEQ, then disposal of sample's representative volume (or dredged materials) shall be in a hazardous waste landfill or upland confined disposal area.
- If sample <33 ppt TCDD organic carbon normalized; or, <0.45 ppt TCDD non-organic carbon normalized, then no restrictions on disposal location of sample's representative volume (or dredged materials).

II.B. PERMIT CONDITIONS PROCESS:

After the TCEQ's evaluation of Section II.A. is submitted to the USACE Galveston District, the USACE will review the information and will add special conditions to Department of the Army permits when such conditions are necessary to satisfy legal requirements under the Clean Water Act and Rivers and Harbors Act of 1899 to otherwise satisfy the public interest requirement. The USACE will only be responsible for enforcing those conditions that are specifically tied to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

In addition, the permit shall contain the following language:

"By accepting this permit, the permittee agrees to accept potential liability for both response costs and natural resource damages, to the same extent as would be inherent under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended (42 U.S.C. 9601 et. Seq.). Further, the permittee agrees that this permit does not exclude the permittee from liability under the CERCLA, nor does the permit waive any liability for response costs, damages, and any other costs that may be assessed under the CERCLA."