

# REAL ESTATE PARTNERSHIP FORUM

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For USACE Galveston District  
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*“The views, opinions and findings contained in this report are those of the authors(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation.”*

File Name



**US Army Corps of Engineers.**



# ENCROACHMENTS

Definition by ER 405-1-12, Chapter 8:

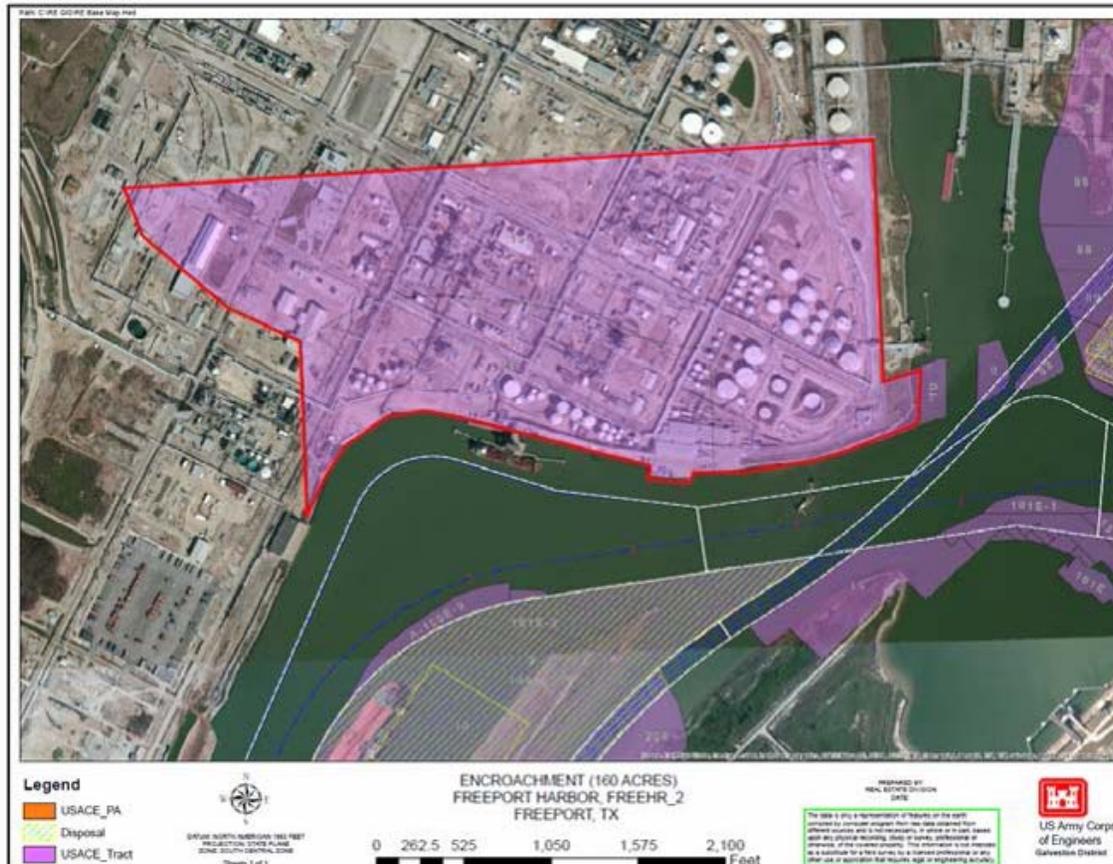
A structure or improvement built, installed or established which interferes with a real estate interest of the United States, either a fee interest or an easement...



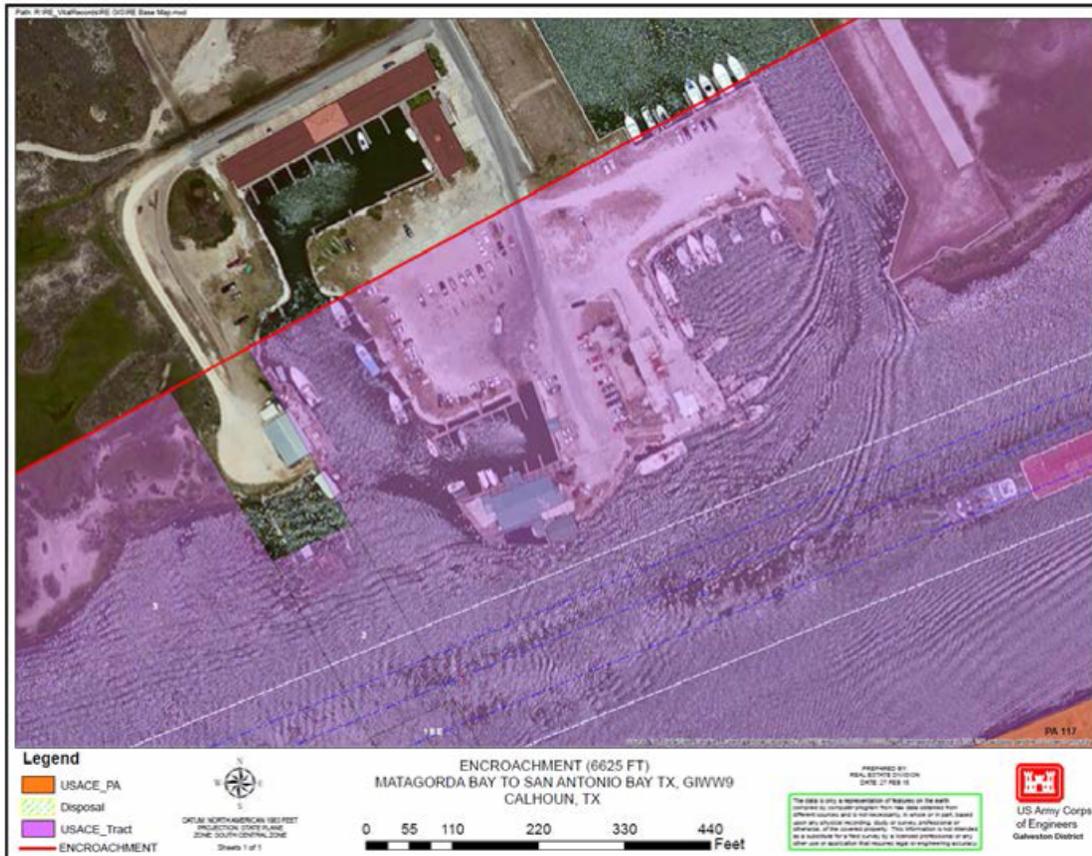
US Army Corps  
of Engineers.



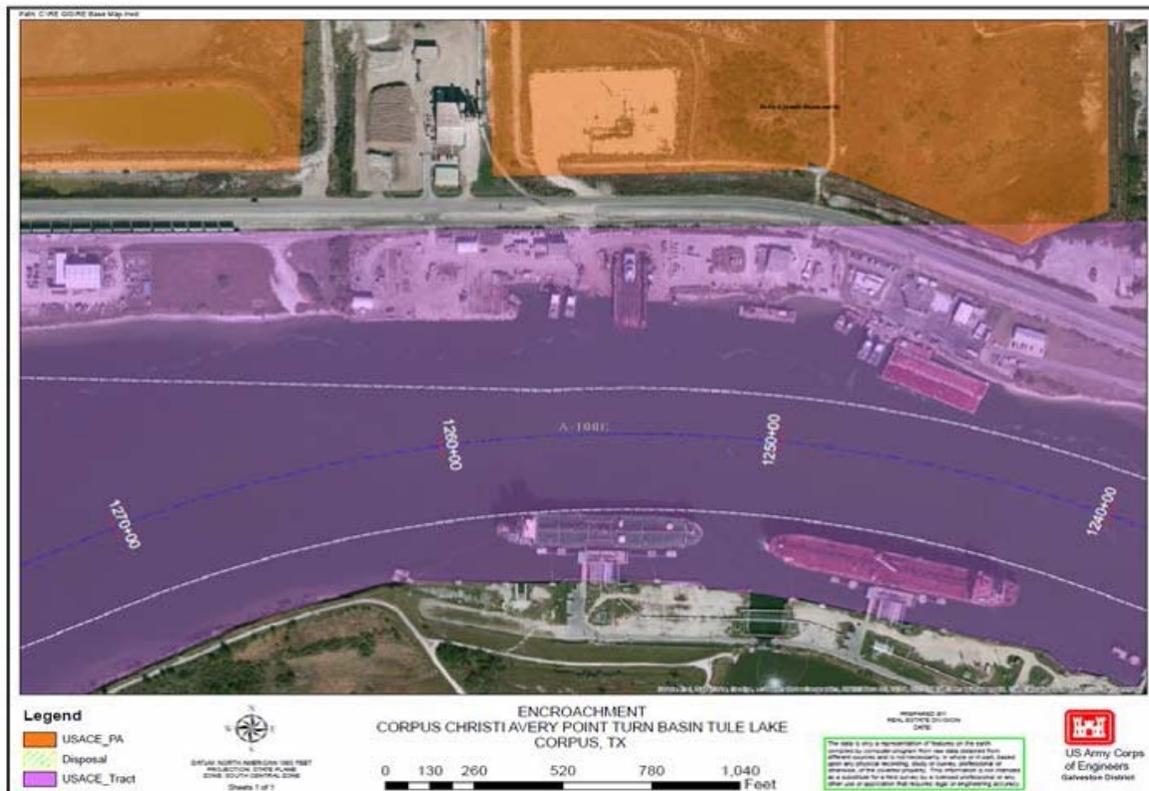
# FREEPORT HARBOR



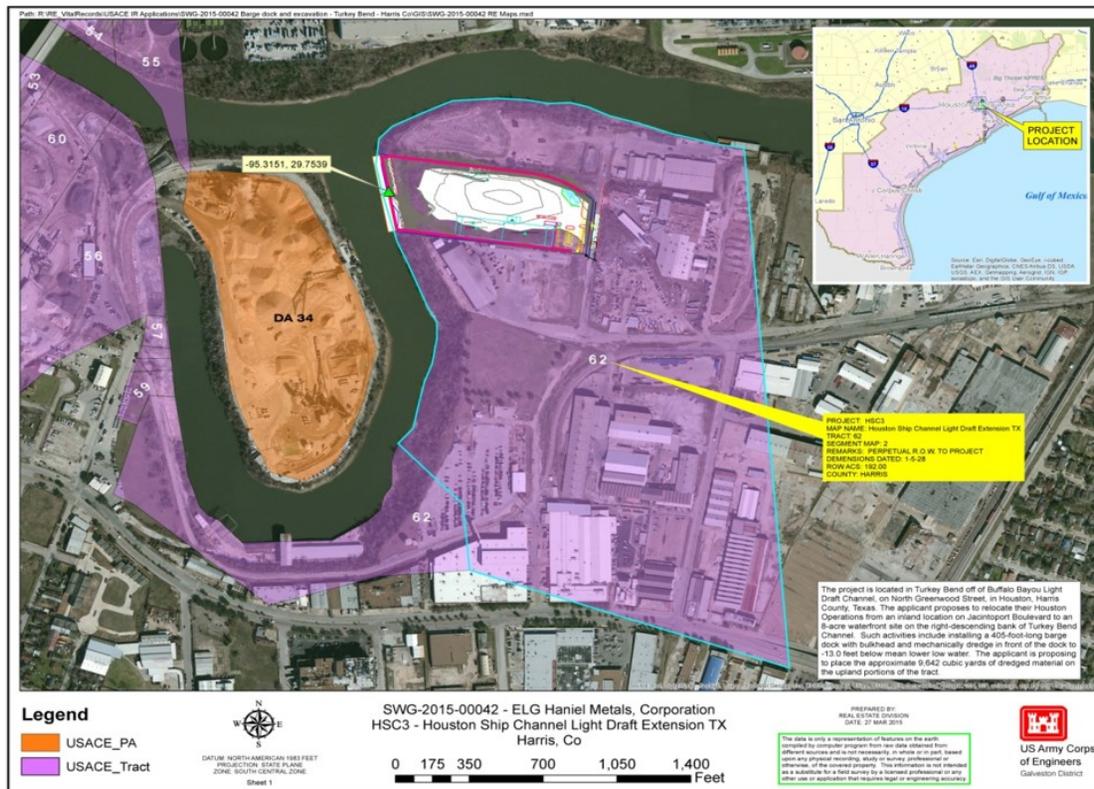
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# HOUSTON SHIP CHANNEL



# PATH FORWARD (SHORT TERM)

## Encroachments Generally.

- Encroachment **incompatible** with the purpose of the project for which the land was acquired **will have to be relocated**.
- Encroachment **compatible** with the purpose of the project may be outgranted. The grantee will be responsible for administrative fees, payment of the fair market value (e.g., rent) for use of the land, and any other costs incurred as a result of the outgrant (e.g., surveys, environmental reports, appraisals).
- **RARELY** is **fee owned** land removed from the project to cure an encroachment. The grantee will be responsible for administrative fees, payment of the fair market value (e.g., rent) for use of the land, and any other costs incurred as a result of the outgrant (e.g., surveys, environmental reports, appraisals).



# PATH FORWARD (SHORT TERM)

## Encroachments within Easement Interests:

- **Real Estate License:** In most cases the Corps can issue a **short term license** to a party occupying land within the federal easement. Licenses have a term of **five years**, however, they are typically **renewable** after the five year term, provided the grantee is in compliance.
  
- **When:** This process will be followed when an encroachment is **identified**.



# PATH FORWARD (LONG TERM)

**Identification:** Identification of encroachment as outgrants issued and survey of encroachments by project.

**Disposal of Easement:** In those instances where an easement is no longer required to maintain the federal project, the District can seek disposal of the easement. Generally in the form of a QCD.



# PATH FORWARD (LONG TERM)

## Disposal of Easement:

Disposal of an easement can only occur when both the **NFS and the District concur** that the easement is no longer necessary for the project.

Party seeking release of easement will be responsible for the payment of all **administrative fees** and transactional costs pursuant to 10 USC 2695.



# PATH FORWARD (LONG TERM)

## **Disposal of Easement:**

Release is **only to** the entity from whom we **received** the easement.

**USACE HQ** is **approval** authority for release of easement.

Process takes **18 to 36** months depending on interests involved, analysis required, and approval processing at higher levels.

