

UTILITY LINE REMOVALS AND RELOCATIONS THAT AFFECT THE CONSTRUCTION OF FEDERAL PROJECTS

Bobby Jones
Regulatory Project Manager
CESWG-RDE
15 October 2020



US Army Corps
of Engineers®

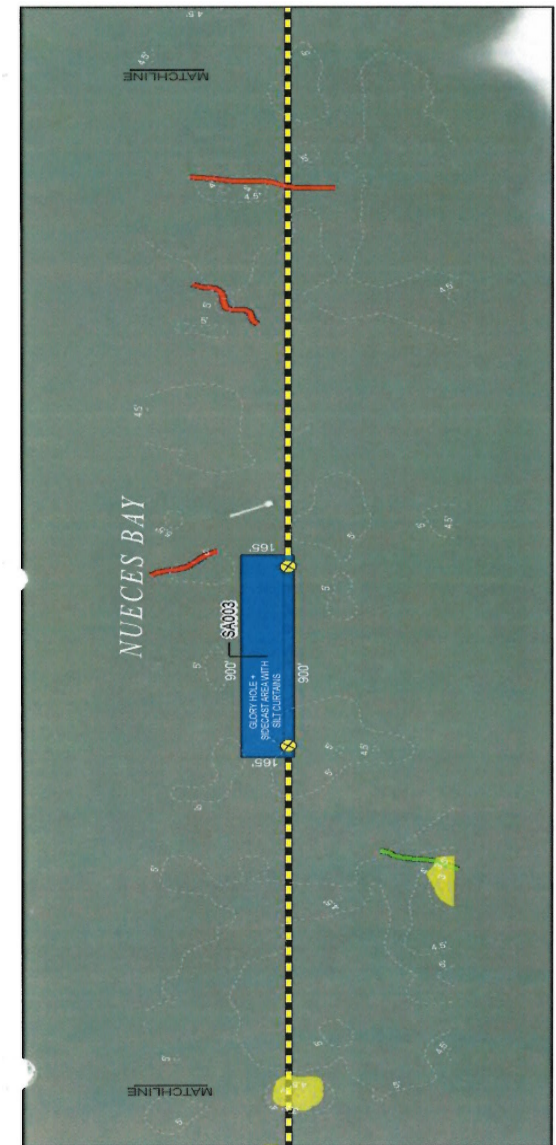




DISCUSSION OVERVIEW



1. Environmental Policies and Authorities
2. Environmental Requirements
3. General Permit (GP) for Removals Overview
4. GP General Conditions for Removals
5. GPs for Relocations Overview
6. Evaluation of GP Applications
7. Individual Permits
8. Questions?





POLICIES AND AUTHORITIES



Section 10 of the Rivers and Harbors Act (RHA) of 1899 (10):

- Work and/or structures in/or affecting navigable waters of the US (NWOTUS)

Section 404 of the Clean Water Act (404):

- Discharge of dredged material into waters of the US (WOTUS)

Section 103 of the Marine Protection, Research, and Sanctuaries Act (103):

- The transportation of dredged material for the purpose of dumping it into ocean waters

Section 14 of the RHA (33 USC 408):

- Section 408 permission for alterations to Civil Works Projects

Public Interest Review (PIR):

- 33 CFR 320.4(a): 21 PIR factors



APPLICABLE PIR FACTORS



Economics:

- Tax dollars, jobs created

Aesthetics, General Environmental Concerns, Fish and Wildlife Values, Water Quality:

- EFH, ESA, WQC

Navigation:

- Navigable Capacity of the Federal Project

Safety/Navigation:

- Impacts to Navigation, lights

Consideration of Property Ownership:

- TGLO, TPWD, Corps





ENVIRONMENTAL REQUIREMENTS



Water Quality Certification (WQC) – TCEQ

- Return water from DMPAs, Temp Side-cast Material from *Trench and Fill*

Coastal Zone Management Act (CZM) – TGLO

- CZM Consistency

Historic and Cultural Resources (Section 106) – THC/Tribes

- Shipwrecks, Historic Places

Endangered Species Act (ESA) – FWS/NMFS-PRD

- Turtles, Manatees, Plovers

Essential Fish Habitat (EFH) –NMFS-HCD

- Impacts to Marine and Anadromous Fish Species

Section 14 of the RHA (Section 408) – Corps Internal

- Operations Division, Real Estate, Programs, Project Management, Civil Works





REMOVAL GPs



SWG-2019-00315; Corpus Christi Ship Channel Improvement Project

SWG-2020-00228; Houston Ship Channel Improvement Project

SWG-2020-00520; Work in NWOTUS to facilitate utility line removals within the District.

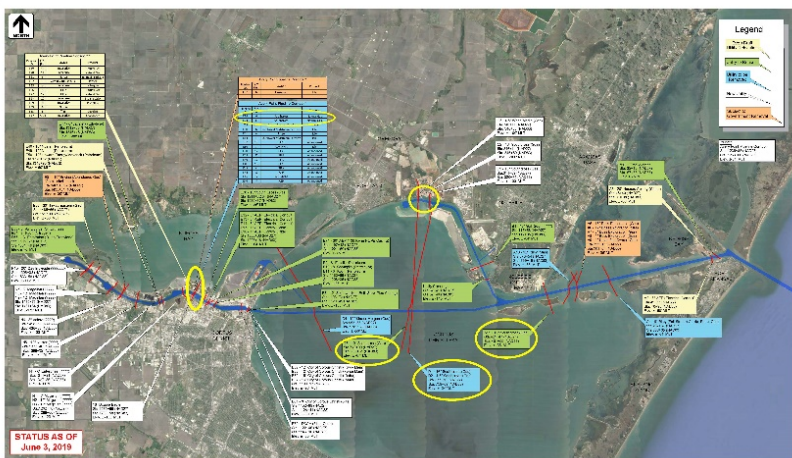
Currently developing additional GPs to facilitate the removals for other Improvement Projects.

Houston Ship Channel Expansion Channel Improvement Project, Harris, Chambers, and Galveston Counties, Texas

Final Integrated Feasibility Report – Environmental Impact Statement



December 2019



PORT CORPUS CHRISTI

Corpus Christi Ship Channel Channel Pipeline Crossings



REMOVAL GP OVERVIEW



GP Regulated Activities Description: Authorizes work in NWOTUS for utility line removals to facilitate the construction of the Federally authorized projects.

GP Restrictions:

- The placement of dredged and/or fill material in or within 500 feet of special aquatic sites defined in 40 CFR 230;
- Permanent losses of waters of the US, including special aquatic sites;
- The discharge of dredged material back into the Federal Project, once dredged from within the Federal Project plus the 500-foot “top-of-slope” limit of the new Federal Project;
- The use of a Hopper Dredge;
- Water jetting for the removal of the utility line;
- Prop-Washing; and
- The relocation of the removed utility lines in waters of the US.



REMOVAL GP OVERVIEW



Dredging:

- New work hydraulic and/or mechanical dredging.

Dredge Material Placement:

- Must receive approval from the Corps prior to conducting work.
- Dredged material from the Federal Channel plus 500 feet outside the new “top-of-slope” limits of the Federal Project on both sides be deposited in a designated upland confined DMPA; Federally approved open bay dredged material disposal site; or in a currently permitted ecological restoration site requiring suitable BU dredged material.

Trench and Fill:

- Temporary dredged and/or fill material resulting from trench excavation, to facilitate utility line removal, and/or from dredging that occurs beyond the 500-foot limit of the “top-of-slope” of the new Federal Project, may be temporarily side cast into waters of the US for no more than 90 days as long as it is not placed in or within 500 feet of special aquatic sites defined in 40 CFR 230, or in a manner that will be eroded by expected high flows or dispersed by currents or other forces.



REMOVAL GP OVERVIEW

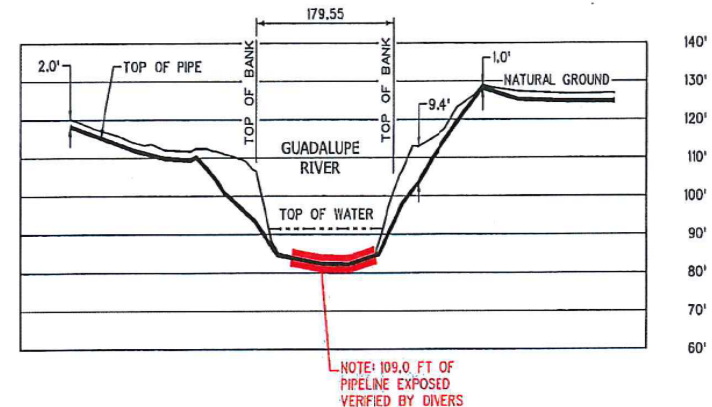


Trench Backfill: Activities specific with trench backfilling outside the 500-foot “top-of-slope” limits of the new Federal Project are authorized under this general permit.

Decommission-in-Place: To avoid adverse impacts to special aquatic sites such as seagrass, oysters, etc.

Temporary Structures and Workspaces: Temporary structures and/or work necessary for construction activities to facilitate utility line removal (i.e., cofferdams, dewatering).

Other Authorizations: GPs will not be valid without all other state, local or regional authorizations required by law. (i.e., TPWD Wildlife Relocation Permit)





RELOCATION GPs



RGP SWG-1998-02413:

- This general permit authorizes HDD and/or DD activities under NWOTUS for the installation and/or relocation of utility lines.
- Does not authorize removal.

NWP 12:

- Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in NWOTUS, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

NWP 33:

- Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites.
- There will be instances where this GP would be used in conjunction with the Removal GPs if impacts to Special Aquatic Sites cannot be avoided.

NOTE: The NWPs are undergoing revisions to reflect current Regulations and Policies. NWP 12 is currently being proposed in the Federal Register to be split into several other NWPs for different types of lines (oil and gas, residential utilities, etc.).



EVALUATION OF GP APPLICATIONS



1. Complete Application (*see General Conditions for GPs*):
 - Will request additional info if necessary
 - NOTE: If the Corps determines the proposed activity does not meet the terms and conditions of the GPs, the permit application will be elevated to an Individual Permit (IP) which requires a Public Notice

2. ESA:
 - Corps is lead Federal Agency and will consult with the Agencies if warranted

3. Internal Review (IR):
 - RE, OD/N/O, 106, Civil Works, etc.
 - 106: The Staff Archeologist will determine if additional work is required to fulfill 106 requirements (Scope of Work for Additional Survey work; consult with the THC as well as the Advisory Council of Historic Properties (ACHP))

4. 408:
 - Will request additional info if necessary
 - Cannot make final decision until 408 is resolved

5. Final Decision:
 - Typically 45- to 60-day review



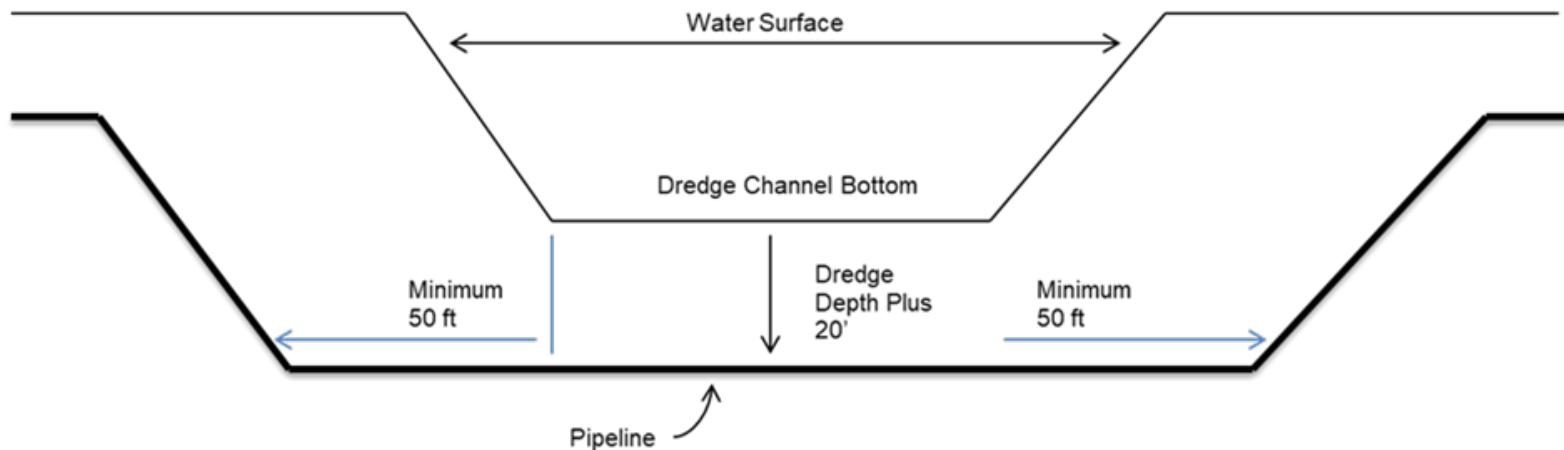
PRECONSTRUCTION NOTIFICATION (PCN):



PCN is required for both removals and relocations.

PCN requirements for the Removals are detailed in the GP

PCN Requirements for NWP can be found in 2017 NWP General Conditions, specifically, General Condition 32 as well as the State of Texas Regional Conditions for the 2017 NWP





INDIVIDUAL PERMITS



Initiating the Individual Permit (IP) process is similar to starting the GP process with ESA and IR evaluations; however, the process gets complicated after these steps.

IPs consist of both Standard Permits (SP) and Letters of Permission (LOP).

LOPs require a 15-day Interagency Coordination Notice (ICN) and most likely not be an avenue of evaluation.

If work proposed under any GP does not meet the terms and conditions of the GP, that application will be, at the Corps Discretion, elevated to a SP.

SPs require a 30-day Public Notice; however, potential additional notices are possible pending on how work evolves from the previous notice based on Agency and Corps concerns.

Requires the applicant to respond to comments from the notice that the GPs may have already addressed.

Permits proposed with a Section 103 component are elevated to SPs and will be sent to the Policy Analysis Branch for review (typically takes 18 months but can go longer).



Questions?

