



**DEPARTMENT OF THE ARMY  
REGIONAL GENERAL PERMIT:  
SWG-1997-02818**



**A. AUTHORIZATION:**

1. **Permit:** Oil and gas development within a portion of the High Island Oil Field.
2. **Issuing Office:** US Army Corps of Engineers, Galveston District (Corps)  
2000 Fort Point Road  
Galveston, Texas 77550
3. **Permittee:** General Public
4. **Geographic Location:** Within a portion of the High Island Oil Field, bounded on the south and west by the existing perimeter levee, on the north by a marsh adjacent to the perimeter levee, and on the east by State Highway 124 and the 5-foot elevation contour, at the base of High Island, Galveston County, Texas.
5. **Effective Date:** May 1, 2020
6. **General Permit Expiration:** This general permit will expire on **December 31, 2025**. If the work authorized by a specific site approval is not started, 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.

**B. REGIONAL GENERAL PERMIT (RGP) APPLICABILITY:**

1. **RGP Regulatory Statute:** Regulated activities authorized in waters of the United States (US) under this RGP are pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; Section 404).
2. **Authorized Activity(s) Description:** This general permit authorizes applicants to install, operate, and maintain fill, structures, and equipment necessary for oil and gas drilling, production, and transportation activities. Impacts to waters of the US, including wetlands, will not exceed 1 acre of permanent and/or 2 acres of temporary impacts for a single and complete project. This general permit may be used to authorize permanent losses and temporary impacts in waters of the US necessary to accomplish the activities listed below:
  - a. **Well Pads:** Discharges of fill necessary, including temporary fills, for the installation, operation, and maintenance for oil and gas drilling, production, and transportation activities;
  - b. **Access Roads:** Regulated activities for single and complete linear projects to construct permanent and temporary access roads necessary for the construction, repair, and maintenance of authorized oil and gas structures. Temporary board matting will be used whenever possible;
  - c. **Temporary Workspaces:** Temporary board matting will be used whenever possible;

- d. Borrow Ditches: Fill roads will be staggered on opposite sides of the roadbed;
- e. Culverts: Culverts shall be placed at all road crossings of natural drainages; they shall be aligned with the stream to allow flow during low flow conditions; be sized to have at a minimum the same width as the bank full width of the stream; and the culvert will be placed at the same slope as the stream slope and floodplain culverts shall be used.

**3. RGP Restrictions:**

- a. Regulated activities for each single and complete project cannot cause the permanent loss of greater than 1.0 acre of waters of the US and the temporary loss of greater than 2.0 acres of waters of the US. Where a single and complete project would result in losses to more than one aquatic resource type (e.g., wetland and tributary), this restriction is calculated as the sum for all losses to aquatic resources.
- b. Mud Pits: Mud-pits are not authorized by this general permit. All by-products of the exploration and production process, including drilling muds, fluids, drill cuttings and oil field waste products must be containerized. Disposal of drilling muds, drilling fluids and drilling cuttings shall be disposed at an authorized disposal facility.

**4. Site Restoration:**

- a. The impact site shall be restored to pre-construction elevations and contours within 60 days of completion of drilling if the well is a non-producer or within 60 days of the cessation of production. A restoration report shall be submitted to the Galveston District's (SWG) Regulatory Division (RD) Compliance Branch (C) within 30 days of restoration.
- b. If the well will be used for production, the impacts will be restored to the minimum necessary for production within 90 days of cessation of drilling. A restoration report shall be submitted to the SWG-RD-C within 30 days of restoration.

**5. Single and Complete Project:** A single and complete project consists of all those activities that are required for the production and distribution of a single oil and gas pad.

- 6. Regulatory Discretion:** If the determination is made that the adverse effects of the proposed work are more than minimal, then the applicant will be notified either:
- a. That the project does not qualify for authorization under the general permit and instruct the applicant on the procedures to seek authorization under an individual permit; or,
  - b. That the project is authorized under the general permit 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,
  - c. That the project is authorized under the general permit with specific modifications or conditions.

**C. PRECONSTRUCTION NOTIFICATION (PCN):**

1. **Application Review Process:** A PCN is a request submitted by the project proponent (applicant) to the Corps for confirmation that a particular activity is authorized by a general permit. The request may be a permit application (DA Form 4345), letter, or similar document that includes information about the proposed work and its anticipated environmental effects. A PCN is required by the terms and conditions of this general permit. Work in waters of the US cannot begin until written approval has been obtained by the applicant from the DE. All applicants shall submit a complete PCN to:

US Army Corps of Engineers, Galveston District  
ATTN: Regulatory Division, Evaluation Branch  
2000 Fort Point Road  
Galveston, Texas 77550

Additional information pertaining to PCN, including the DA FORM 4345, can be found at the Galveston District's Regulatory Division homepage at the following link: <https://www.swg.usace.army.mil/Business-With-Us/Regulatory/>.

2. **Completeness Determination:** If the application is determined to be incomplete, the applicant will be notified requesting specific information surrounding the activity. The applicant will have a 30 day period to gather and submit the requested information back to the Corps. If the requested information is not submitted in full after that 30 day period, the Corps will withdraw the permit application without prejudice for the applicant's right to reapply at a later date. However, once the application has been withdrawn, the Corps will only accept a resubmitted application if the applicant can provide all of the information previously requested.
3. **Requirements for a Federally Complete PCN:** In order to be considered federally complete, the PCN shall include:
  - a. A completed and signed DA application (Form ENG 4345), or other suitable means of submittal (i.e., letter, report, etc.) that has the following information detailed:
    - i. Name (Point of Contact), Address, Telephone, email (if applicable) of the applicant and consultant (if applicable);
    - ii. Signed statement acknowledging the use of a consultant if applicable;
    - iii. Location of the proposed activity(s) in decimal degrees;
    - iv. Description of the proposed activity, detailed description of construction methods in the order of commencement, purpose and need, direct and indirect adverse environmental effects the activity may cause in linear feet, acres, cubic yards, and/or other suitable means;
    - v. Detailed description of avoidance and minimization measures, including approved Texas Commission on Environmental Quality (TCEQ) Best Management Practices, and/or other mitigation measures, including proposed compensatory mitigation for the loss of water of the US (if applicable), the applicant has undertaken;
    - vi. A copy of all DA authorizations previously issued for the work area.

- b.** A delineation of waters of the US, including wetlands and other special aquatic sites defined in 40 CFR 230.3(q-1), in accordance with the 1987 Corps of Engineers Wetland Delineation Manual and the appropriate Regional Supplement, that clearly demonstrates the locations and boundaries of any aquatic resource located within the project site location. The size of each special aquatic resource (in acres or square feet) and location (decimal degrees) can be included on a table if multiple resources are present. All aquatic resources names and boundaries must be clearly demarcated on a delineation map.
- c.** A vicinity map, plan view, typical cross section detailing the proposed method of construction showing all impacts to waters of the US. Engineered and/or colored drawings will be accepted on a case by case basis; however, general and typical drawings will be suitable if found legible. Drawings shall include:
  - i.** A vicinity map with the precise location of the project so that its geographic coordinates (decimal degrees) can be determined. The map shall show the site of the proposed activity clearly marked and shown in relation to the nearest roads and/or other infrastructure in the area.
  - ii.** A plan view of the dimensions of any proposed fill and the dimensions of all appurtenances.
  - iii.** A cross section drawing showing dimensions and cubic yardage of any proposed fill, temporary and/or permanent, as well as the dimensions of all appurtenances.
- d.** A statement that the work will be conducted in compliance with the terms and conditions of this general permit.
- e.** A statement of estimated start and completion dates.
- f.** A site restoration plan for temporary impacts and/or compensatory mitigation plan for permanent impacts in accordance with Section D of this general permit.

#### **D. MITIGATION:**

- 1.** In accordance with the Federal Mitigation Rule (33 CFR part 332), the Section 404(b)(1) guidelines (40 CFR part 230), and current Corps policies and guidelines for compensatory mitigation, regulated activities must be designed and constructed to avoid and minimize (mitigate) adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site (i.e., on site). Mitigation includes actions which may avoid, minimize, rectify, reduce, or compensate for adverse environmental effects or activities which may otherwise be contrary to the public interest.
- 2.** Examples of avoidance activities may include excluding wetlands from additional temporary workspace. Minimization activities may include the use of construction matting in waters of the US, or seasonally restricting the timing for regulated activities. Regulated activities which the Corps believes do not mitigate adverse environmental effects or are contrary to the public interest are ineligible for authorization by this general permit, and will be evaluated by the Corps using individual permit procedures.

3. After all practicable steps to avoid and minimize adverse effects to waters of the US have been considered, the Corps may require compensatory mitigation to ensure that the regulated activity results in no more than minimal adverse environmental effects, or will not be contrary to the public interest. In reviewing the complete PCN for the proposed activity, the Corps will determine whether the activity authorized by the general permit will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The Corps will issue the general permit verification for that activity if it meets the terms and conditions of that general permit, unless the Corps determines, after considering compensatory mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest. When this occurs, the Corps will exercise discretionary authority to require an individual permit evaluation for the proposed regulated activity.
4. Regulated activities eligible for this RGP which require submittal of a PCN must include a statement describing how compensatory mitigation requirements will be satisfied, or an explanation why compensatory mitigation should not be required for proposed impacts to waters of the US. Project proponents may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the project proponent must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of the current Corps policies, guidelines, and 33 CFR 332 (the Mitigation Rule).

#### E. GENERAL CONDITIONS:

1. **Compliance:** The permittee is responsible for ensuring that whomever performs, supervises, and/or oversees any portion of the physical work associated with the construction of the project has a copy of and is familiar with all the terms and conditions of the permit and any special (permit-specific) conditions included in any written verification letter from the Corps. The permittee is ultimately responsible for ensuring compliance with all the terms and conditions of the permit. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable permit general conditions, as well as any activity-specific conditions added by the Corps to the permit authorization.
2. **Post-Construction Notification:** The permittee must provide notification of project completion of the authorized activity and implementation of any required mitigation to the Corps within 30 days of completion of the authorized activity, or the implementation of any required compensatory mitigation, whichever comes later.
3. **Site Inspection:** The permittee shall allow representatives from the Corps to inspect the proposed project site and the authorized activity to ensure that it is being, or has been, constructed and maintained in accordance with the general permit authorization.

- 4. Suitable Material:** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 5. Restoration of Temporary Impacts:** All temporary impacts in waters of the US, including discharges resulting from side casting material excavated from trenching, that occur as a result of the regulated activity must be fully contained with appropriate erosion control or containment methods, be restored to preconstruction contours and elevations, and, as appropriate, revegetated with native, non-invasive vegetation. In temporarily excavated wetlands, topsoil should be segregated and replaced to original depths, for example, in most wetlands the top 6 to 12 inches of the excavation should normally be backfilled with topsoil originating from the wetland. No temporary excavation area, including, but not limited to trenches, may be constructed or backfilled in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a French drain effect).
- 6. Temporary Impacts:** Temporary impacts in waters of the US, including wetlands, must be avoided and limited to the smallest area and the shortest duration required to accomplish the project purpose.
- 7. Clean Construction Equipment:** All construction equipment must be clean prior to entering and before leaving the work site in order to prevent the spread of invasive species.
- 8. Access Roads:** Access roads must be sized appropriately and must be constructed in such a way to minimize adverse effects on waters of the US and elevations must be as near as practicable to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). All access roads constructed in waters of the US must be properly bridged or have culverts installed to maintain surface flows.
- 9. Cultural and Historic Resources:** The Corps will review all activities proposed under this general permit for cultural resources requirements, and, when appropriate, coordinate these activities with the Texas Historical Commission (THC).
  - a.** In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
  - b.** If potential historic properties are located in the project area, permit specific conditions may be implemented for additional protection to avoid these resources by a sufficient margin as designated by the Corps and the THC. If avoidance of the potential historic is not feasible, further archeological investigations shall be required.
  - c.** The activity shall not begin until the Corps has notified the prospective permittee that the activity has no potential to cause effects to historic properties and/or that NHPA section 106 consultation has been completed.

- 10. Unknown Historic and Archeological Remains:** If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this permit, you must immediately cease and desist any activity on the project and notify the Galveston District Regulatory Division 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. No work shall continue until all required coordination has been completed and written notification by the Corps has been provided.
- 11. Tribal Rights:** Any activity proposed under this general permit may cause no more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.
- 12. Threatened and Endangered Species:** No activity proposed under this general permit is authorized that is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species.
- a. The Corps will review all proposed activities authorized under this general permit for Endangered Species Act requirements, and, when appropriate, coordinate these activities with the U.S. Fish and Wildlife Service (FWS).
  - b. No activity is authorized under this general permit which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed.
    - i. Direct effects are the immediate effects on listed species and critical habitat caused by the general permit activity.
    - ii. Indirect effects are those effects on listed species and critical habitat that are caused by the general permit activity and are later in time, but still are reasonably certain to occur.
  - c. Authorization of an activity by this general permit does not authorize the “take” of a threatened or endangered species as defined under the ESA. The ESA prohibits any person subject to the jurisdiction of the US to take a listed species:
    - i. “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.
    - ii. “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
  - d. Work shall not begin on the activity until the Corps has notified the permittee that the requirements of the ESA have been satisfied and that the activity is authorized.
  - e. As a result of formal or informal consultation with the FWS or NMFS, the District Engineer may add species specific permit conditions to the general permit verification.

- 13. Migratory Bird Act and Bald and Golden Eagle Protection Act:** For any activity proposed under this general permit, the applicant is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The applicant is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.
- 14. Migratory Bird Breeding Areas:** Activities in waters of the US that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
- Work is prohibited within 1,000 feet of an identified bird rookery between February 14th and September 1st.
  - Any work within 1,000 feet of a known wading bird or seabird rookery shall be restricted to the non-nesting period of the species comprising that rookery.
- 15. Activities Affecting Structures or Works Built by the US:** If the activity authorized by this general permit requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) Federally authorized Civil Works project (a “USACE project”), the activity is not authorized by this general permit until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USACE project, and the District Engineer sends a written notice to the applicant of approval.
- 16. Coastal Zone Management Act:** The activity authorized by this general permit will be conducted in a manner that is consistent and complies with the Texas Approved Coastal Management Program (CMP) as determined by the Texas Rail Road Commission (RCC). The activities must also meet the terms and conditions of the attached RCC CMP Consistency Statement.
- 17. Section 401 of the Clean Water Act Water Quality Certification:** The activities authorized under this general permit must meet the State of Texas Water Quality Standards as determined by the RCC. The activities must also meet the terms and conditions of the attached RRC Section 401 Water Quality Certification.

## F. FURTHER INFORMATION:

- 1. Limits of this authorization:**
- This general permit does not obviate the need to obtain other federal, state, or local authorizations required by law;
  - This general permit does not grant any property rights or exclusive privileges;
  - This general permit does not authorize any injury to the property or rights of others; and
  - This general permit does not authorize interference with any existing or proposed federal project.



- 2. 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 US 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.
  
- 3. 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.
  
- 4. Re-evaluation of Permit Decision:** This office may re-evaluate 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.
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
  - d. Significant new information surfaces which this office did not consider in reaching the original decision. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 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 permittee to comply with the terms and conditions of their permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails 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 the permittee for the cost.

- 5. Transfer of Regional General Permit Verifications:** If the permittee sells the property associated with the general permit verification, the permittee may transfer the general permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the general permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this general permit are still in existence at the time the property is transferred, the terms and conditions of this general permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

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

FOR THE GALVESTON DISTRICT ENGINEER:

\_\_\_\_\_  
**ROBERT W. HEINLY**  
**GALVESTON DISTRICT REGULATORY DIVISION**  
**POLICY ANALYSIS BRANCH CHIEF**  
**FOR COLONEL TIMOTHY R. VAIL**

\_\_\_\_\_  
**DATE**

WAYNE CHRISTIAN, CHAIRMAN  
CHRISTI CRADDICK, COMMISSIONER  
RYAN SITTON, COMMISSIONER



DANNY SORRELLS  
ASSISTANT EXECUTIVE DIRECTOR  
DIRECTOR, OIL AND GAS DIVISION  
LESLIE SAVAGE, P.G.  
CHIEF GEOLOGIST

## RAILROAD COMMISSION OF TEXAS OIL AND GAS DIVISION

April 28, 2020

U.S. Army Corps of Engineers  
Regulatory Division, CESWG-RDR  
Corpus Christi  
ATTN: Ms. Mr. Robert N. Jones (via email)

Texas Parks and Wildlife Department  
Coastal Fisheries Division  
ATTN: Ms. Rebecca Hensley

Re: Water Quality Certification and Texas Coastal Management Plan Consistency  
Determination  
U.S. Army Corps of Engineers, Re-Issuance of Regional General Permits  
Development of Petroleum Exploration Activities in Texas  
SWG-1997-02818 – High Island Oilfield Development  
SWG-1998-02413 – Directional Drilling

Dear Mr. Jones:

The Railroad Commission of Texas (RRC) has reviewed the notice of the re-issuance of the referenced permits and the draft permits. The RRC issued the water quality certification and the Texas Coastal Management Program (TCMP) consistency determination for the existing permits by letter dated January 10, 2014. A review of the draft permit indicates very few changes proposed in the reissued permits.

SWG-1997-02818 will authorize applicants to install, operate, and maintain structures and equipment necessary for oil and gas drilling, production, and transportation activities in the High Island Oil Field boundaries. Impacts to Waters of the United States, including wetlands, will not exceed one acre of permanent and/or two acres of temporary impacts for a single and complete project. This RGP also may be used to authorize permanent losses and temporary impacts in Waters of the United States necessary to construct well pads, access roads, temporary workspaces, borrow ditches and culverts.

SWG-1998-02413 will authorize the installation of pipelines by means of horizontal directional drilling (HDD) or directional drilling (DD) below navigable waters of the United States. Specific depth requirements are dependent on the type of navigable water.

This office received a copy of a letter dated January 4, 2019, from the Texas Parks and Wildlife Department (TPWD) commenting on the proposed re-issuance of the referenced permits. TPWD recommended that the SWG-1997-02818 include a specific avoidance distance of 100 feet between regulated activities and special aquatic sites as defined in 40 CFR 230.4(q-1). The RGP

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is conditioned to minimize and avoid impacts to the aquatic environment necessary for oil field development related work.

TPWD also commented that HDD and DD may still have impacts on fish and wildlife resources during geotechnical work, water uptake and discharge during HDD/DD installation, and the potential for release of drilling fluid during HDD crossings. The primary areas of concern for inadvertent return releases occur at the entrance and exit points where the drilling equipment is at a shallower depth. TPWD recommended the following:

1. A qualified biologist should determine the presence or absence of protected aquatic species at the proposed boring and water uptake locations prior to construction work being conducted. The applicant should locate water intake and/or discharge points to minimize impacts to species dependent on water quality and quantity upstream and downstream of the HDD/DD entry and exit locations.
2. Implement measures to minimize sediment impacts from the water uptake and geotechnical borings through installation of silt fences or other protective measures.
3. Locate the entrance and exit points for HDD or DD at least 500 feet from waters of the United States, including wetlands and other special aquatic sites.
4. Develop and coordinate with TPWD a detailed inadvertent return contingency plan for drilling activities under sensitive shallow water habitats.

The proposed permit includes a requirement that the applicant provide a detailed description of avoidance and minimization measures, including approved Texas Commission on Environmental Quality (TCEQ) Best Management Practices, which include measures to minimize sediment impacts. The proposed permit requires an inadvertent return remediation plan to limit impacts to the aquatic environment.

TPWD recommended that the RGP should only authorize regulated activities for projects that use non-toxic materials in drilling fluids beneath Waters of the United States. The PCN requirements should require a list of constituents in the drilling fluids be submitted with the application and made available to TPWD and other resource agencies.

Drilling fluid used in HDD/DD is composed of bentonite and water, which are nontoxic. Additives are not typically used. However, the permit should require the applicant to indicate and consider in the inadvertent return remediation plan the composition of any additives used in the drilling fluid.

TPWD recommended the following restrictions in Sections B or C to address general construction activities that may have direct or indirect impacts on native fish and wildlife species, or their habitats:

1. For soil stabilization and/or revegetation of disturbed areas within the proposed project area, the applicant should provide erosion and native seed/mulching stabilization materials that avoid entanglement hazards to snakes and other wildlife species. The applicant should use a no-till drilling hydro-mulching and/or hydro-seeding rather than erosion control blankets or mats to

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reduce risk to wildlife. If erosion control blankets or mats are used, the product should contain no netting or contain loosely woven natural fiber netting in which the mesh design allows the threads to move, therefore allowing expansion of the mesh openings. Plastic mesh netting should be avoided.

2. If trenching, excavation or backfilling is involved during construction, the applicant should keep construction crews together to minimize the amount of trenches/excavation areas left open at any given time during construction. Any open trenches or excavation areas should be covered overnight and/or inspected every morning to ensure no wildlife species have been trapped. Trenches left open for more than two daylight hours should be inspected for the presence of trapped wildlife prior to backfilling. If trenches or excavation areas cannot be backfilled the day of initial excavation, then escape ramps should be installed at least every 90 meters.

The proposed permit includes a requirement that the applicant provide a detailed description of avoidance and minimization measures, including approved Texas Commission on Environmental Quality (TCEQ) Best Management Practices, which include measures to minimize sediment impacts. The USACE should consider the appropriateness of the measures proposed by the applicant to protect wildlife.

I have examined the draft permit and public notice for the reissuance of the referenced permits and identified no conflicts between the proposed permits and applicable state water quality requirements. Based on my review, there is reasonable assurance that the activities under these permits, if conducted in the manner described and in accordance with applicable state and federal regulations will not cause a violation of applicable water quality requirements. This is conditioned on a requirement that the applicant indicate and consider in the inadvertent return remediation plan the composition of any additives used in the drilling fluid. Water quality certification for re-issuance of the referenced permits is hereby issued.

In addition, the subject area is within the boundary covered by the Texas Coastal Management Plan (TCMP). The RRC has reviewed the proposed actions for consistency with the TCMP goals and policies, in accordance with the regulations of the TCMP, and has found that the proposed actions will have a direct, but not significant adverse effect on any coastal natural resource area identified in the applicable policies, but has determined that the proposed actions are consistent with the applicable goals and policies of the TCMP, with the conditions discussed above.

Please call me at (512) 463-7308 if you have any questions.

Sincerely,

Leslie Savage, P.G., Chief Geologist  
Oil and Gas Division