



**DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT:
SWG-2020-00837**



A. AUTHORIZATION:

- 1. Permit:** Regional General Permit (RGP) for Work in Navigable Waters of the United States (US) to Facilitate the Removal of Utility Lines Affecting the Federally Authorized Sabine-Neches Waterway (SNWW) Channel Improvement Project (SNWW CIP).
- 2. Issuing Office:** Department of the Army (DA), US Army Corps of Engineers (Corps), Southwest Division (SWD), Galveston District (SWG)
- 3. Effective Date:** 1 **MONTH** 2020
- 4. Permittee:** General Public
- 5. Geographic Location:** Within navigable waters of the US located in the SNWW along with all side, access, and bypass channels, excluding all wetlands, sanctuaries and refuges, located in Jefferson County, Texas.
- 6. General Permit Expiration:** This permit will expire on **31 December 2026**. 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 Statutes:** Work and/or the placement of structures in/or affecting navigable waters of the US authorized under this general permit is subject to jurisdiction pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403; Section 10). The placement of dredged and/or fill material in waters of the US, including navigable waters, is subject to jurisdiction pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344; Section 404).
- 2. RGP Regulated Activities Description:** This general permit authorizes work in navigable waters of the US to facilitate utility line removals as ordered by the Corps' District Engineer (DE) *Directive to Remove* letters sent out on behalf of the Secretary of the Army for the construction of the Federally authorized SNWW CIP. Authorized work includes:
 - a.** New work hydraulic and/or mechanical dredging around the utility lines to an extent of exposure for safe removal without adversely affecting the Federal Project. Dredged material that is excavated within the Federal Channel plus 500 feet outside the "top-of-slope" limits of the new SNWW CIP on both sides shall be deposited in a designated upland confined dredged material placement area (DMPA); or be discharged in Federally-approved open water dredged material disposal site; or in a currently permitted ecological restoration site requiring suitable beneficial use (BU) dredged material;

- b. *“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 SNWW CIP, 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;
- c. This general permit also authorizes temporary structures and/or work necessary for construction activities to facilitate utility line removal (i.e., cofferdams, dewatering). All temporary workspaces shall be restored to preconstruction contours and elevations to the fullest practicable extent so that it does not adversely impact the SNWW CIP, does not create shoaling, and does not create potential draft restrictions within the Federal Project or other navigable waterways;
- d. This general permit also authorizes, within the geographic scope, the decommission-in-place of utility lines outside the 500-foot “top-of-slope” limits;
- e. Best management practices (BMPs) must be utilized to the fullest extent practicable when handling temporary dredged material. Temporary dredged material must consist of native material removed (excavated or dredged) for the purpose of utility line removal. All affected areas, including the temporary fill areas, must be returned to preconstruction elevations and contours.

NOTE: *The DE may extend the period of time for temporary side casting on a case by case basis when appropriate. NOTE: Unauthorized adverse impacts to special aquatic sites will require self-reporting this activity to the Corps RD Compliance Branch. A statement that a restoration plan will be submitted within 30 days shall accompany this self-reported activity.*

- 3. **RGP Restrictions:** This general permit **does not** authorize:
 - a. The placement of dredged and/or fill material in or within 500 feet of special aquatic sites defined in 40 CFR 230.
 - b. Permanent losses of waters of the US, including special aquatic sites;
 - c. 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 SNWW CIP;
 - d. The use of a Hopper Dredge;
 - e. Water jetting for the removal of the utility line;
 - f. “Prop-Washing”;
 - g. The relocation of the removed utility lines in waters of the US.

NOTE: *The relocation of utility lines shall be evaluated under applicable general permits or under an individual permit as appropriate.*

- 4. **Single and Complete Project:** The authorized work must be part of a single and complete project.

- 5. Regulatory Discretion:** If the determination is made that the adverse effects of the proposed work are more than minimal, the applicant will then be notified that either:
- a. 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;
 - b. The project is verified 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. The project is verified 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
 P.O. Box 1229
 Galveston, Texas 77553

- 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 (*Appendix B: DA Form ENG 4345*), or other suitable means of submittal (i.e. letter, report, etc.) that has the following information detailed:
 - i. The official designated point of contact (POC) for the application to be named on the final permit decision, address, telephone, and email (if applicable);
 - ii. Signed statement acknowledging the use of a consultant with their contact information (if applicable);

- iii. Longitude and Latitude of the proposed start and end locations of the proposed activity in decimal degrees with a detailed description of the construction methods in the order of commencement including the purpose and need; and,
 - iv. A copy of all DA authorizations previously issued for the work area (including blanket permits if applicable).
- b. A vicinity map, plan view, and typical cross section drawings 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 work corridor of the proposed activity along with plan views of the upland DMPAs and/or temporary workspaces so that geographic coordinates (decimal degrees) can be verified;
 - ii. A top plan view map showing the work corridor's precise length and width dimensions of all dredge areas, dredged pipeline routes, temporary workspaces, temporary structures, and any other work authorized under this general permit;
 - iii. Top view and cross section plan view drawings depicting the proposed depths in the following datums: mean lower low water (MLLW), mean high water (MHW), and high tide line (HTL). The plan views shall also depict the proposed dredging dimensions, temporary workspaces, temporary structures, dredged pipeline layout with temporary structures; and
 - iv. An aquatic resource delineation map that clearly demonstrates the locations and boundaries of any aquatic resources (i.e. wetlands, submerged aquatic vegetation (SAV), mudflats, and/or other special aquatic sites defined in 40 CFR 230.3(q-1)) located within 500 feet of any portion of the proposed project. The size of each aquatic site (in acres or square feet) and its distance to the edge of the project boundary must be depicted on this map.
- c. A statement that the work will be conducted in compliance with the terms and conditions of this general permit; and
- d. A statement of estimated start and completion dates for the activity.
4. **DMPA Use:** For projects proposing to use a Federal DMPA, the protocol, *Sampling and Analysis Plan – Private Dredging USACE Galveston District October 2019* (attached), must be followed if specifically requested by the Corps. If sampling of the material is requested, the applicant shall submit a sampling and analysis plan to SWG's Operations Division (OD) to be approved prior to testing. In order to obtain sediment testing clearance to utilize Federal DMPAs for disposal of dredged material, the deliverables outlined in Section 6 of the protocol shall be submitted to SWG-OD for review and approval.

- 5. Real Estate Outgrant:** The work authorized by this general permit will likely require a Real Estate (RE) Instrument (Outgrant) signed by the RE Contracting Office. In order to initiate the approval process, a complete application (attached) shall be submitted along with Articles of Incorporation (also known as Formation Documents), a W-9, and CADD/GIS files for the project site. Once all of the appropriate documentation has been received, a cost estimate will be created and routed for approval. A letter will be sent to the applicant requesting administrative fees. Applicants are encouraged to wire funds to reduce the time for processing. Wiring instructions will be included on the fee letter. Once administrative fees are received, an applicant's request will be forwarded to a RE Specialist for processing.

The following is additional information and instructions to facilitate review:

- a. The following documents must be consistent and contain the same entity and/or applicant's name in the appropriate locations: RE application (*see C.3.a.i above*), Regulatory Permit, W-9, and Articles of Incorporation (also known as Formation Documents);
- b. Refunds of administrative fees will be sent back to the address listed on the provided W-9;
- c. The name listed in Block 1c of the RE application shall be the applicant's designated signatory authority, or POC (*see C.3.a.i above*). The names listed in Blocks 1c and 3c cannot be the same individual;
- d. The address listed in Block 1g should be the applicant's physical address, not a P.O. Box;
- e. Block 4c of the application shall include the Regulatory permit project number (*starts with SWG-*), not the RE or other permit number;
- f. The RE instrument granted will cover all RE impacts along the entire length of the project;
- g. Block 5f: applicants are encouraged to use a continuation sheet.
- h. The project description should include the latitude (Y) and longitude (X) where the project begins and ends. The plans should also include the latitude (Y) and longitude (X) of the proposed Federal DMPAs to be used;
- i. The overall project description should be consistently represented in the project drawings. The description should be easy to follow so all parties conducting a review can gain a quick understanding of the proposed project;
- j. The applicant shall provide cross sections of the Federal Channel in relation to any nearby levees, placement areas, or other Federal Projects within the vicinity of the proposed work;
- k. The applicant shall provide project plans that include a timeline for construction;
- l. The applicant shall provide final as-built data;
- m. All GIS data submissions should be provided to SWG-OD as a compressed (.zip) file containing a geodatabase (.gdb) and/or shapefile (.shp) components;
- n. Information pertaining to the RE process can be found at:
<https://www.swg.usace.army.mil/Business-With-Us/Real-Estate-Division/>.

NOTE: SWG OD and RE requirements in C.5.a – m shall be consistent with RD requirements in C.3.a – d.

- 6. Private PA Use:** If only private PAs are being proposed to be used that do not have Federal Interests and needs no RE approval, no Outgrant application is required; however, for proposed work in the Federal Channel, a SWG-OD-408-APP Form may be required to complete a Section 408 review, if required. The Corps will provide the applicant with this form if a 408 review is requested. The form must be filled out, it must be consistent with the DA FORM 4345, and it must reference the Regulatory Project Number to then be submitted to the requesting Corps office.

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., onsite). 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, but are not limited to, monitoring dredge speed and operations to maintain water quality, installation of turbidity and/or silt curtains or other BMPs available to minimize turbidity during regulated activities in waters of the US, and jetting temporary structures in waters of the US for dredge pipeline placement. Additional information pertaining to BMPs can be found at the following link:
https://www.tceq.texas.gov/permitting/401certification/401certification_definition.html.
3. After all practicable steps to avoid and minimize adverse effects to waters of the US have been considered, the Corps may require additional mitigated measures and/or 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 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 permit verification for that activity if it meets the terms and conditions of the GP.
4. After considering compensatory mitigation, the Corps will make the determination whether or not the regulated activities do fully mitigate for the individual and cumulative adverse environmental effects on the aquatic environment and other aspects of the public interest. If the Corps determines that the overall activities proposed under this general permit are contrary to the public interest, the proposed activities are ineligible for verification under this general permit and the Corps will exercise discretionary authority by elevating the proposed activities to an individual permit evaluation which will be evaluated using standard permit procedures.

5. Information regarding current Corps policies and guidelines about avoidance and minimization measures, and compensatory mitigation can be found at the following link: <https://www.swg.usace.army.mil/Business-With-Us/Regulatory/>.

E. GENERAL CONDITIONS:

1. **Utility Line Removal:** The term *utility line* is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, water, sewage, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and internet, radio, and television communication. Utility lines removed under this general permit will not be stored, staged, or buried in areas that are located in waters of the US.
2. **Dredge Material Placement:** Dredged material proposed for placement in a Federal DMPA, including OBDMDS, must receive approval from the Galveston District Real Estate Division prior to conducting work.
 - a. The permittee shall not discharge dredged material that has been removed from within the Federal Channel plus 500 feet outside the "top-of-slope" limits of the new SNWW CIP on both sides into waters of the US back into the SNWW.
 - b. Dredged material may be placed in a Federally approved open water dredged material disposal site or a previously permitted disposal site under a separate authorization (i.e., currently authorized ecological restoration sites requiring suitable BU dredged material).
 - c. Dredged material resulting from trench excavation to facilitate utility line removals beyond the 500-foot limits of the "top-of-slope" of the new SNWW CIP may be temporarily side cast into waters of the US that are not special aquatic sites. Dredged material placed in waters of the US shall not be placed in a manner that will be eroded by expected high flows nor dispersed by currents or other forces.
3. **Preconstruction and Post Construction Requirements:** Preconstruction surveys are required to be conducted and shall be submitted to the Corps 10 days prior to commencing work in jurisdictional areas that demonstrate the physical pre-work baseline conditions. Post construction surveys for the utility line removal areas are also required to be conducted and submitted to the Corps no more than 14 days after completing dredging and removal activities that accurately demonstrate the post-work physical conditions of the site. The surveys shall be multi-beam and side scan sonar surveys that include coverage of the utility line removal affected area from within the top-of-slopes inside the Federal Channel plus 250 feet beyond the top-of-slopes.

- 4. Compliance:** The permittee is responsible for ensuring that whomever performs, supervises 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 this general 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 work shall be properly maintained, including maintenance to ensure public safety and compliance with applicable permit conditions, as well as any activity-specific conditions added by the Corps to a permit authorization.
- 5. 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 permit authorization.
- 6. Clean Construction Equipment:** All construction equipment must be cleaned prior to entering the project area and cleaned before leaving the project area in order to prevent the spread of invasive species.
- 7. 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 State Historic Preservation Officer (SHPO).

 - 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 SHPO. If avoidance of the potential historic property is not feasible further investigations may be required.
 - c.** The activity shall not begin until the Corps notifies 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 and that the activity is authorized.
- 8. Unknown Historic and Archeological Remains:** If any previously unknown historic or archeological remains are discovered while accomplishing the activity authorized by this general 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, State, and Tribal 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.
- 9. Tribal Rights:** Any activity proposed under this general permit may not cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

- 10. Special Aquatic Sites:** The temporary placement of material excavated and/or dredged outside the 500-foot “top-of-slope” limits **shall not** be placed in or within 500 feet of any special aquatic sites, specifically mudflats, vegetated shallows, and wetlands. If unauthorized adverse impacts resulting from excavation or dredging occur to special aquatic sites during work to remove utility lines, the permittee must submit a restoration and monitoring plan to ensure the sites re-establish once authorized work has been completed. The affected areas shall be re-vegetated as appropriate and the permittee will be required to monitor the site for a duration of no less than 3 years unless the DE determines the site is re-establishing naturally prior to any additional monitoring requirements. If the site has not re-established by the 3rd monitoring event, the permittee shall notify the DE in writing a request to amend their adaptive management plan that addresses and/or compensates for the loss of functions of the site.
- a. Special Aquatic Sites typically refer to sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle and pool complexes. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region.
 - b. Vegetated shallows are areas that are permanently inundated, and under normal circumstances, have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.
 - c. The term wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.
 - d. Mudflats are broad flat areas along the sea coast and in coastal rivers to the head of tidal influence and in inland lakes, ponds, and riverine systems. When mudflats are inundated, wind and wave action may suspend bottom sediments. Coastal mudflats are exposed at extremely low tides and inundated at high tides with the water table at or near the surface of the substrate. The substrate of mudflats contains organic material and particles smaller in size than sand. They are either unvegetated or vegetated only by algal mats.
- 11. Essential Fish Habitat:** Applications proposed under this general permit will be evaluated on a case by case basis for activities that may or may not adversely affect essential fish habitat (EFH); and if warranted, the Corps will consult with National Marine Fisheries Service (NMFS) Habitat Conservation Division (HCD) on a case by case basis for project specific EFH recommendations.
- 12. Threatened and Endangered Species:** Work authorized under this general permit will not directly or indirectly jeopardize the continued existence of a listed threatened and/or endangered (T&E) species and/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 ESA requirements, and, when appropriate, coordinate these activities with the US Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) Southeast Regional Office (SERO) Protected Resources Division (PRD).
- b. No activity authorized under this general permit “may affect” a listed species and/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 activity.
 - ii. Indirect effects are those effects on listed species and critical habitat that are caused by the 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 USFWS and/or NMFS, the Corps may add species specific permit conditions to the general permit authorization.

NOTE: *Temporary impacts resulting from “trench and fill” method of removal will be evaluated on a case by case basis and may require ESA consultation. NOTE: Work within or near the vicinity of mapped critical habitat of Federally listed T&E Species will be evaluated on a case by case basis and will require ESA consultation.*

- 13. Sea Turtle Avoidance Measures:** Federally Listed T&E sea turtles include Green Sea Turtle (*Chelonia mydas*), Hawksbill Sea Turtle (*Eretmochelys imbricate*), Kemp's Ridley Sea Turtle (*Lepidochelys kempii*), Leatherback Sea Turtle (*Dermochelys coriacea*), Loggerhead Sea Turtle (*Caretta caretta*). The permittee shall adhere to the following to avoid effects on these listed species:
- a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles. All construction personnel are responsible for observing water-related activities for the presence of these species.
 - b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles which are protected under the Endangered Species Act of 1973.

- c. Siltation barriers shall be made of material in which a sea turtle cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle entry to or exit from designated critical habitat without prior agreement from the NMFS-SERO-PRD, St. Petersburg, Florida.
 - d. All vessels associated with the project shall operate at “no wake/idle” speeds at all times while work is being conducted in the project area in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible at appropriate work speeds.
 - e. If a sea turtle is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include temporary cessation of construction operations of any moving equipment closer than 50 feet of a sea turtle. Operation of any mechanical construction equipment shall cease immediately if a sea turtle is seen within a 50-foot radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.
 - f. Any collision with and/or injury to a sea turtle shall be reported immediately to the NMFS-SERO-PRD, St. Petersburg, FL, (727-824-5312) and the local authorized sea turtle stranding/rescue organization.
 - g. Adhering to these conditions does not alleviate the need for ESA consultation which will be determined on a case by case basis.
- 14. West Indian Manatees:** The permittee shall advise all construction, operations, and contractor staff members that a West Indian Manatee (*Trichechus manatus*) may approach the proposed project area. The permittee shall provide training materials such as posters, pamphlets, training sessions, etc. to assist in identifying the animal. The permittee shall instruct the aforementioned personnel not to feed or water the animal if one should present itself within or near the project site. If a West Indian Manatee is sighted, all construction activities shall cease until the animal has left the project area. The sighting shall be immediately reported to the Texas Marine Mammal Stranding Network (TMMSN).
- 15. 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.
- a. Offshore Portions of the SNWW: Work authorized under this general permit is prohibited within 1,000 feet of identified bird rookery islands located within the long reach of the SNWW between February 14th and September 1st.
 - b. Side, Access, and Bypass Channels of the SNWW: Work authorized under this general permit is prohibited within 500 feet of an identified bird rookery area within the SNWW side, access, and bypass channels between February 14th and September 1st.
- 16. Navigation:** The permittee will not prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit. No structures or fill will be allowed to obstruct any navigation channels or impact any federal properties.

- 17. Aids to Navigation:** Unless prohibited by law, the permittee will install, display, and maintain, at the expense of the permittee, light and signals on all structures and/or work authorized herein as may be prescribed by the US Coast Guard. Aids to navigation will be permitted and placed in accordance with US Coast Guard Regulation 33 C.F.R. 66.
- 18. Future Operations by the US:** The permittee understands and agrees that, if future operations by the US require the removal, relocation, or other alteration, of the structure and/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 US. No claim shall be made against the US on account of any such removal or alteration.
- 19. Property Rights:** This general permit does not convey any property rights, either in real estate or material, or any exclusive privileges and does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local authorization required by law for the activity authorized herein.
- 20. Texas Coastal Management Program Consistency:** Work authorized under this general permit will be consistent with the Texas Coastal Management Program's Goals and Policies outlined in the Texas Administrative Code Title 31, Part 16, Chapter §501, Subchapter B.
- 21. Section 401 of the Clean Water Act:** Effluent from the hydraulically dredged material placed in upland confined DMPAs or other designated disposal areas shall not exceed a total suspended solids (TSS) concentration of 300 mg/L.
- 22. RGP Terms and Conditions:** All activities identified and authorized herein shall be consistent with the terms and conditions of this permit. Any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit.
- 23. Other Authorizations:** This general permit will not be valid without all other state, local or regional authorizations required by law.
- 24. Claims against the United States:** Any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the US.

F. FURTHER INFORMATION:

- 1. Limits of this Authorization:**
 - a. This general permit does not obviate the need to obtain other federal, state, or local authorizations required by law;
 - b. This general permit does not grant any property rights or exclusive privileges;
 - c. This general permit does not authorize any injury to the property or rights of others; and
 - d. 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; or
 - 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 re-evaluation 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; or
 - d. 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 this general permit authorization, the permittee may transfer the authorization to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the permit authorization must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this 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 DISTRICT ENGINEER:

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

(DATE)