



# Public Notice

**U.S. Army Corps  
Of Engineers**

**Galveston District**

Permit Application No: SWG-2019-00315

Date Issued: 22 October 2019

Comments

Due: 22 November 2019

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT (CORPS)  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)**

**PURPOSE OF PUBLIC NOTICE:** To inform you that the Corps is proposing a Regional General Permit (RGP) SWG-2019-00315 for utility line removal within the Corpus Christi Ship Channel (CCSC) Improvement Project (CCSCIP) in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

**AUTHORITY:** This application will be reviewed pursuant to Sections 10 (33 USC 403) and 14 (33 USC 408) of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (33 USC 1344).

**APPLICANT:** US Army Engineer District, Galveston  
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Galveston, Texas 77550  
POC: Robert Jones  
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**LOCATION:** The project is located in the CCSC, and adjacent waterbodies that will be directly affected by the proposed general permit located in Aransas, Nueces, and San Patricio Counties, Texas. The geographic scope can be located on the USGS 7.5 minute quadrangles entitled: PORT ARANSAS, PORT INGLESIDE; PORTLAND, CORPUS CHRISTI, and ANNAVILLE, TX.

**PROJECT DESCRIPTION:** This general permit would authorize work in navigable waters of the US to facilitate utility line removals that impact the construction of the Federally Authorized CCSCIP as ordered by the Corps' District Engineer (DE) *Directive to Remove* letters sent out on behalf of the Secretary of the Army. Authorized work would include 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 excavated within 500 feet from the "top-of-slope" on both sides of the CCSCIP would be deposited in an area that has no waters of the US or in designated upland confined dredged material placement areas (DMPA). Temporary dredged and/or

fill material resulting from trench excavation for the purpose of utility line removal, and/or from dredging beyond the 500-foot limit of the top-of-slope of the CCSCIP, may be temporarily side cast into waters of the US for no more than 90 days. Best management practices (BMPs) would be utilized to the fullest extent practicable when handling temporary dredged and/or fill material. Temporary dredged and/or fill material would consist of native material removed (excavated or dredged) for the purpose of utility line removal. Temporary fills would not be placed in special aquatic sites, (i.e., vegetated shallows, tidal and/or non-tidal wetlands), or in a manner that would not be eroded by expected high flows nor dispersed by currents or other forces. After conducting the utility line removal activity, temporary fills would be removed and replaced with the same native material excavated for the purpose of removing the utility line in their entirety. All affected areas, including the temporary fill areas, would be returned to pre-construction elevations. This general permit would also authorize temporary structures and/or work necessary for construction activities for utility line removal (i.e., cofferdams, dewatering). All temporary workspaces would be restored to preconstruction contours and elevations to the fullest practicable extent to where it does not adversely impact the CCSCIP, does not create shoaling, and does not create high points within the Federal Project or other navigable waterways. This general permit would also authorize utility line removal (if not previously authorized) from within the CCSC and adjacent bay systems directly affected by the utility line removal.

**ADDITIONAL INFORMATION:** 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. Special Aquatic Sites (40 CFR 230.3(q-1)) 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. 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. 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. The DE may extend the period of time for temporary side casting on a case by case basis when appropriate. Additional monitoring requirements would be implemented to any written verification under this general permit as special conditions if impacts resulting from dredging or excavating occur to special aquatic sites.

**RGP RESTRICTIONS:** This general permit **does not** authorize: the permanent discharge and/or placement of dredged and/or fill material into waters of the US within the 500-foot limits specified above; discharge of dredged and/or fill material into special

aquatic sites (i.e., vegetated shallows, tidal and non-tidal wetlands); the use of a Hopper Dredge; direct and/or indirect impacts resulting in temporary or permanent losses to wetlands and other special aquatic sites; prop washing; and water jetting for the removal of the utility line; and the relocation of the removed utility lines in waters of the US. The relocation of utility lines shall be evaluated under applicable general permits or under a standard permit when appropriate.

**AVOIDANCE AND MINIMIZATION:** Each permit application proposed under this general permit will require a Pre-Construction Notification (PCN) to be submitted to the Corps. Each application will be evaluated on a case by case basis. Proposed general conditions are listed in the general permit and the applicant will be required to abide by the terms and conditions of the general permit. Examples of avoidance and minimization measures 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 U.S., and jetting temporary structures in waters of the U.S. for dredge pipeline placement. In order to meet the general permit terms and conditions, the Corps may add any permit specific special conditions that would be required to further avoid and minimize impacts (*refer to Section E. General Conditions (GC) in the proposed general permit; specifically, refer to GC 2 & 10 for avoidance and minimization to special aquatic sites as well as Section B Regional General Permit Applicability of the proposed general permit*).

**MITIGATION:** All applications will be evaluated on a case by case basis; and when appropriate, the Corps will require compensation for the unavoidable permanent impacts to the aquatic environment, or elevate the application to an individual permit evaluation (*refer to Section D. Mitigation of the proposed general permit*).

**CURRENT SITE CONDITIONS:** Seagrasses found in the Corpus Christi Bay Watershed are comprised of manatee grass (*Halodule wrightii*), widgeon grass (*Ruppia maritima*), and turtle grass (*Thalassia testudinum*). Common estuarine fringe vegetation is comprised of smooth cordgrass (*Spartina alterniflora*), black mangroves (*Avicennia germinans*), sea ox-eye daisy (*Borrchia frutescens*), seashore saltgrass (*Distichlis spicata*), and saltwort (*Batis maritima*). Corpus Christi Bay has a surface area of 124,796 acres with 127 miles of shoreline and an average depth of 11 feet. The CCSCIP is Federally Authorized to a depth -54 feet mean lower low water (MLLW). Freshwater inflow, which strongly influences estuarine productivity, enters into the Corpus Christi Bay system from the Nueces River and Oso Creek.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

**OTHER AGENCY AUTHORIZATIONS:** Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1500 linear feet of streams (or a combination of the two is below the threshold). Tier II projects are those that directly impact greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold). The Corps has incorporated general conditions for BMPs and other provisions designed to safeguard water quality. Concurrent with the Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279, 1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. box 13087, Austin, Texas, 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest. The RGP incorporates general conditions that comply TCEQ Texas Surface Water Quality Standards as required by Section 401 of the Clean Water Act pursuant to Title 30, Texas Administrative Code, Chapter 279, for both Tier I and Tier II projects. In addition, the RGP is conditioned for the return water from upland confined DMPAs not exceed 300 mg/L of total suspended solids (TSS) (*refer to Section E, GC 21*).

The Texas General Land Office (TGLO) will evaluate the general permit for Consistency with the State of Texas Coastal Management Plan. The general permit was developed to comply with Texas' approved Coastal Management Program goals and policies and activities proposed under this general permit will be conducted in a manner consistent with said program (*refer to Section E, GC 20 of the proposed general permit*).

Pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408), any proposed alteration of the Federal project must be evaluated for impacts to the Federal project. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized Corps Civil Works project. The evaluation must assure that the proposed project will not impair the usefulness of the Federal project nor will be injurious to the public interest (*refer to GC (16-18) of the proposed general permit*).

**NATIONAL REGISTER OF HISTORIC PLACES:** Each permit application proposed under this general permit will require a PCN to be submitted to the Corps which will then be coordinated internally with the Galveston District staff archeologist who will review the latest published version of the National Register of Historic Places, lists of properties

determined eligible, and other sources of information on a case-by-case basis (in accordance with the National Historic Preservation Act and 33 CFR 325 Appendix C) (*refer to GC E(7-9) of the proposed general permit*).

**THREATENED AND ENDANGERED SPECIES:** Each permit application proposed under this general permit will require a PCN to be submitted to the Corps. Each PCN will be reviewed on a case by case basis for impacts to Federally listed threatened and/or endangered Species or their critical habitat; and if required, will consult with the responsible agencies in accordance with the Endangered Species Act (*refer to GC E(12-14) of the proposed general permit*).

**ESSENTIAL FISH HABITAT:** This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Each permit application proposed under this general permit will require a PCN to be submitted to the Corps. Each PCN will be reviewed on a case by case basis for potential impacts to Essential Fish Habitat (EFH) if it's applicable to that specific project. EFH impact determinations relative to specific projects and their impacts that will have the need to implement mitigation measures is subject to review by and coordination with the National Marine Fisheries Service (*refer to GC E(10-11) of the proposed general permit*).

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a general permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposed general permit, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

**SOLICITATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed general permit. Any comments received will be considered by the Corps of Engineers for our determination. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

**PUBLIC HEARING:** The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed general permit. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before **22 November 2019**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2019-00315**, and should be submitted to:

Corpus Christi Field Office  
Regulatory Division, CESWG-RD-R  
U.S. Army Corps of Engineers  
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DISTRICT ENGINEER  
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