



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2020-00520

21 July 2020

20 August 2020

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

PURPOSE OF PUBLIC NOTICE: To inform you that the Galveston District is seeking to issue a Regional General Permit for work affecting navigable waters. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT: U.S Army Corps of Engineers
Galveston District – Regulatory Division
P.O. Box 1229
Galveston, Texas 77553-1229

LOCATION: Within Navigable waters of the US within the SWG boundaries only within the State of Texas; this general permit does not authorize any activity in the State of Louisiana.

PROJECT DESCRIPTION: This general permit authorizes work in navigable waters of the US to facilitate utility line removals that impact Federally Authorized Projects. 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 channel on both sides shall be deposited in a designated upland confined dredged material placement area (DMPA); or be discharged in Federally approved open bay 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 channel, 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 navigability of the channel, 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.

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 with 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 to 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 **August 20, 2020**. 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-2020-00520**, and should be submitted to:

Department of the Army
U.S. Army Corps of Engineers, Galveston District
Regulatory Division, Evaluation Branch
ATTN: SWG-2020-00520
P.O. Box 1229
Galveston, Texas 77553-1229
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS