ENVIRONMENTAL REPORT:
BEPC SANDY TRANSmission
LINE AND SUBStATION –
GRIMES, MONTGOMERY, AND
WALKER COUNTIES, TEXAS

4/16/2012
Prepared for Brazos Electric Power Cooperative, Inc. and
USDA-Rural Utilities Service

COX | McLAIN
Environmental Consulting
TABLE OF CONTENTS

Introduction.......................................................................................................................................................... 1
1.0 Project Description..................................................................................................................................... 1
2.0 Need for the Project ..................................................................................................................................... 1
3.0 Routing Study.............................................................................................................................................. 2
3.1 Study Area Delineation............................................................................................................................ 2
3.2 Data Collection and Constraints Mapping.......................................................................................... 2
3.3 Identification of Preliminary Routing Segments................................................................................. 3
3.4 Agency Coordination................................................................................................................................ 5
3.5 Public Involvement...................................................................................................................................... 5
3.6 Next Steps in the Process......................................................................................................................... 6
4.0 Affected Environment and Environmental Consequences................................................................ 6
4.1 Land Use....................................................................................................................................................... 6
4.2 Floodplains................................................................................................................................................... 9
4.3 Wetlands.......................................................................................................................................................10
4.4 Cultural Resources....................................................................................................................................10
4.5 Threatened and Endangered Species................................................................................................13
4.6 Fish and Wildlife Resources..................................................................................................................18
4.7 Vegetation.................................................................................................................................................19
4.8 Coastal Areas...........................................................................................................................................22
4.9 Air Quality..................................................................................................................................................22
4.10 Water Quality..........................................................................................................................................22
4.11 Aesthetics.................................................................................................................................................23
4.12 Transportation..........................................................................................................................................24
4.13 Socioeconomic and Community Resources......................................................................................25
4.14 Noise, Radio, and Television Interference......................................................................................28
4.15 Human Health and Safety..................................................................................................................29
4.16 Cumulative Effects...................................................................................................................................29
5.0 Summary of Mitigation and Monitoring Measures.........................................................................31
6.0 Literature/Publications Cited................................................................................................................32

LIST OF APPENDICES

Appendix A Agency Coordination
Appendix B Public Involvement
## LIST OF ACRONYMS AND ABBREVIATIONS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BEPC</td>
<td>Brazos Electric Power Cooperative</td>
</tr>
<tr>
<td>BMP</td>
<td>Best Management Practice</td>
</tr>
<tr>
<td>BNSF</td>
<td>Burlington-Northern-Santa Fe</td>
</tr>
<tr>
<td>CCN</td>
<td>Certificate of Convenience and Necessity</td>
</tr>
<tr>
<td>EMF</td>
<td>Electromagnetic fields</td>
</tr>
<tr>
<td>FAA</td>
<td>Federal Aviation Administration</td>
</tr>
<tr>
<td>FCC</td>
<td>Federal Communications Commission</td>
</tr>
<tr>
<td>FEMA</td>
<td>Federal Emergency Management Agency</td>
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<td>FPPA</td>
<td>Farmland Protection Policy Act</td>
</tr>
<tr>
<td>kV</td>
<td>Kilovolt</td>
</tr>
<tr>
<td>NEPA</td>
<td>National Environmental Policy act</td>
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<tr>
<td>NRCS</td>
<td>Natural Resources Conservation Service</td>
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<tr>
<td>NRHP</td>
<td>National Register of Historic Places</td>
</tr>
<tr>
<td>NWI</td>
<td>National Wetland Inventory</td>
</tr>
<tr>
<td>PUCT</td>
<td>Public Utility Commission of Texas</td>
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<tr>
<td>RUS</td>
<td>Rural Utility Service</td>
</tr>
<tr>
<td>SAL</td>
<td>State Archeological Landmark</td>
</tr>
<tr>
<td>SWPPP</td>
<td>Stormwater Pollution Prevention Plan</td>
</tr>
<tr>
<td>TARL</td>
<td>Texas Archeological Research Laboratory</td>
</tr>
<tr>
<td>TCEQ</td>
<td>Texas Commission on Environmental Quality</td>
</tr>
<tr>
<td>THC</td>
<td>Texas Historical Commission</td>
</tr>
<tr>
<td>TPDES</td>
<td>Texas Pollutant Discharge Elimination System</td>
</tr>
<tr>
<td>TxDOT</td>
<td>Texas Department of Transportation</td>
</tr>
<tr>
<td>TXNDD</td>
<td>Texas Natural Diversity Database</td>
</tr>
<tr>
<td>USACE</td>
<td>U.S. Army Corps of Engineers</td>
</tr>
<tr>
<td>USDA</td>
<td>U.S. Department of Agriculture</td>
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<tr>
<td>USGS</td>
<td>U.S. Geological Survey</td>
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INTRODUCTION

Brazos Electric Power Cooperative, Inc. (BEPC or Brazos Electric) is in the process of performing an environmental review pursuant to the National Environmental Policy Act (NEPA) for the U.S. Department of Agriculture Rural Utilities Service (RUS) in order that it may assess the environmental impacts of constructing a new location electrical power substation (the Sandy Substation) and transmission line. The study area considered for the substation location and transmission line routing includes portions of Grimes, Walker, and Montgomery Counties, Texas (see Figure 1).

In applying for financial assistance from the RUS’s Electric Program loan and grant programs, Brazos Electric is required to prepare and submit an Environmental Report to support the Agency’s environmental review process as required by NEPA and the Agency’s environmental policies and procedures (7 CFR 1794). In addition, the Public Utility Commission of Texas (PUCT) requires that an environmental assessment of the proposed project be conducted as part of Brazos Electric’s application for a Certificate of Convenience and Necessity (CCN). The PUCT will use the CCN application process to determine whether the proposed project is necessary and, if so, which of the evaluated alternatives will be approved for construction. This Environmental Report has been prepared to fulfill the RUS and PUCT requirements.

1.0 Project Description

Brazos Electric plans to construct approximately 14 to 18 miles of 138 kilovolt (kV) single circuit transmission line with single-pole structures from a tap point along an existing transmission line in Grimes County proceeding east to a new location five-acre substation to be sited in western Walker County near the community of San Jacinto. The transmission line right-of-way would be 70 feet wide (100 feet wide where needed for angled structures). The substation would be located along or near FM 1791 north of the Sam Houston National Forest.

2.0 Need for the Project

Mid-South Synergy is one of Brazos Electric’s member cooperatives that serves portions of Brazos, Grimes, Madison, Montgomery, Walker, and Waller Counties. Brazos Electric is proposing this project in order to provide for increased reliability and better continuity of service within the Mid-South system. Population growth in the area surrounding the City of Huntsville has resulted in high load growth for the Mount Zion and Roans Prairie substations. Existing transmission lines through the Sam Houston National Forest have suffered repeated outages due to restrictions on tree and limb trimming adjacent to the right-of-way and subsequent trees/limbs falling on the line. Construction of the Sandy Substation would help alleviate some of this load and provide a transmission source across private lands with no tree maintenance restrictions. The lack of Brazos Electric transmission lines in the area makes it necessary to construct a new transmission line from Brazos Electric’s existing transmission line (between Roans Prairie and Singleton) to the proposed Sandy substation.
The proposed project would:

1. Improve service reliability by reducing feeder lengths and fault exposure,
2. Reduce voltage drop and improve power quality to members,
3. Provide additional substation capacity to serve future load growth in the area, and
4. Increase load transfer and back-feed capabilities between area feeders.

Figure 2 shows Brazos Electric’s service area, and Figure 3 depicts the Brazos Electric transmission system.

3.0 Routing Study

3.1 Study Area Delineation
A large study area was established within which multiple route alignment alternatives could be considered and potential constraints could be identified. The study area considered for substation location and transmission line routing options includes portions of Grimes, Walker, and Montgomery Counties, Texas (see Figure 1). The eastern and western boundaries for the study area were established based upon the existing Brazos Electric transmission line which would serve as the tap point for the proposed transmission line (on the western side of the study area) and encompassing the area along FM 1791 for the proposed Sandy substation location (on the eastern side of the study area) which Mid-South has identified as the area needing an additional substation. The southern boundary of the study area was established just north of the Sam Houston National Forest, which was identified as a constraint that should be avoided. The northern boundary was established such that the proposed transmission line would not be unnecessarily long (it was preferred from a cost standpoint that the line be less than 20 miles in length from end to end if possible).

3.2 Data Collection and Constraints Mapping
Potential environmental constraints were identified within the project study area according to PUCT guidelines and prudent avoidance standards. Data sources consulted included, but were not limited to, the following:

- U.S. Geological Survey (USGS) 7.5 minute topographic quadrangle maps;
- Aerial photographs;
- Soil survey maps for Grimes, Montgomery, and Walker Counties;
- National Wetlands Inventory (NWI) maps;
- Texas Parks and Wildlife Department’s Texas Natural Diversity Database (rare, threatened and endangered species location data);
Figure 2 - BEPC Service Area

Brazos Electric Power Cooperative Service Area

- **Brazos Service Area**
- 1. San Antonio
- 2. Corpus Christi
- 3. Houston
- 4. Dallas/Ft. Worth
- 5. Amarillo
- 6. Austin
- 7. Waco
• Federal Emergency Management Agency (FEMA) floodplain maps;
• Texas Archeological Research Laboratory (TARL) data regarding archeological sites, NRHP properties, cemeteries and prior surveys;
• Federal Aviation Administration (FAA) airport locations; and
• Federal Communication Commission (FCC) radio and cell tower data.

In addition to the sources listed above, information was gathered through site visits for constraints maps verification along publicly accessible roadways. Personal contacts with landowners and people familiar with the study area, including those associated with public meetings, also contributed information about potential constraints within the study area.

3.3 Identification of Preliminary Routing Segments
Brazos Electric has established several preliminary route segments and substation locations for consideration for the proposed project. The following considerations were taken into account when identifying preliminary route segments:

• Minimization of route segment lengths;
• Minimization of angles;
• Following existing compatible rights-of-way (electric transmission lines, roads, railroads, pipelines, etc.) as appropriate;
• Paralleling existing property lines or fence lines in the absence of existing right-of-way, where reasonable and feasible;
• Minimizing visual contrast with the natural landscape;
• Minimizing conflict with current and planned land uses, airports/landing strips, parks and recreation areas, radio/TV towers, and surface irrigation;
• Minimizing impacts to natural resources (such as wetlands, woodlands, and wildlife) and human resources (such as residences and cultural resources);
• Minimizing the number of habitable structures within 300 feet of the transmission line centerline;
• Avoidance of densely populated residential areas and maintaining as much distance as practicable from individual homes and public facilities (such as churches, schools, etc.); and
• Avoidance of major road crossings in the vicinity of interchanges and intersections.
Four substation locations were considered, each approximately five acres in size, located along FM 3179 and FM 1791. A total of 78 transmission line route segments were considered, including route segments A1-11, A13-19, B1, C1-10, D1-21, E1-4, and F1-24. The lengths of each route segment are listed in Table 1. Of these, only one substation location and one end-to-end transmission line route (encompassing a combination of the route segments) will be selected for construction. Figure 4 shows preliminary alternative alignments. Figures 5a and 5b show potential routing constraints.

<table>
<thead>
<tr>
<th>Route Segment</th>
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</tr>
<tr>
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<td>0.23</td>
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</tr>
<tr>
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<tr>
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</tr>
<tr>
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</tr>
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<td>C4</td>
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<td>1.57</td>
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<td>0.26</td>
</tr>
<tr>
<td>C6</td>
<td>1.88</td>
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<td>F14</td>
<td>5.28</td>
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<tr>
<td>D1</td>
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<td>0.26</td>
</tr>
<tr>
<td>D2</td>
<td>0.49</td>
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<td>0.28</td>
</tr>
<tr>
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<td>1.89</td>
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<tr>
<td>D10</td>
<td>1.49</td>
<td>F24</td>
<td>6.92</td>
</tr>
</tbody>
</table>
Figure 4
Preliminary Alternative Alignments

Prepared for: BEPC
Prepared by: AP
Scale: 1" = 6,000 ft
Date: 12/12/11
File: G:\Projects\Brazos\W_Sandy_Loop\Figures\ER\Prel_Align_20120307.mxd
3.4 Agency Coordination
A total of 19 letters were sent to agencies and public officials in order to request information about
the project study area and to ask for comments on the proposed project. Agencies sent letters include
the Texas Historical Commission, U.S. Fish and Wildlife Service, Texas Parks and Wildlife Department,
U.S. Army Corps of Engineers, U.S. Department of Agriculture (USDA) Natural Resources Conservation
Service, Texas Department of Transportation, U.S. Forest Service, and Sam Houston National Forest.
Public officials, including county commissioners and county judges, in Grimes, Walker, and
Montgomery Counties were also contacted. A full list of the agencies and officials sent letters is
included in Appendix A. Copies of responses received to date are also included in Appendix A.
Agency coordination is ongoing and will continue in some instances following selection of a preferred
route. Detailed investigations within the proposed right-of-way will be completed following the PUCT
selection of a route and prior to construction, including an archeological survey, wetland delineation,
and habitat assessment.

3.5 Public Involvement
Two public open house meetings were held for the proposed project. The meetings were advertised
in five local newspapers, as listed in Table 2. A copy of the newspaper notice is included in
Appendix B.

<table>
<thead>
<tr>
<th>Newspaper</th>
<th>Publication Date 1</th>
<th>Publication Date 2</th>
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<tbody>
<tr>
<td>The Bryan-College Station Eagle</td>
<td>Tuesday, February 14, 2012</td>
<td>Tuesday, February 21, 2012</td>
</tr>
<tr>
<td>The Huntsville Item</td>
<td>Tuesday, February 14, 2012</td>
<td>Tuesday, February 21, 2012</td>
</tr>
<tr>
<td>The Courier of Montgomery County</td>
<td>Tuesday, February 14, 2012</td>
<td>Tuesday, February 21, 2012</td>
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</tbody>
</table>

Landowners within 300 feet of the centerline of each of the alternative route segments and substation
locations were notified via direct mail notices. Notices included a letter inviting landowners to attend
the meetings, maps showing preliminary alignment routes and substation locations, and a flowchart
illustrating the licensing process for transmission facilities. A total of 353 notices were sent to
landowners. A copy of the notice is included in Appendix B. Similar notices were sent to public
officials. A copy of the notice and the list of public officials are also included in Appendix B.

The first meeting was held from 3:00 p.m. to 7:00 p.m. on Tuesday, February 28, 2012, at the West
Sandy Community Center/Old San Jacinto Schoolhouse. A total of 124 people signed in at the
meeting. The second meeting was held from 3:00 p.m. to 7:00 p.m. on Thursday, March 1, 2012, at
the Singleton Community Center. A total of 41 people signed in at the meeting. At both meetings,
attendees were provided with informational handouts including project descriptions, maps, flowcharts
illustrating the PUCT licensing process for transmission facilities, and questionnaires. Various exhibits
from Mid-South and Brazos Electric explaining the need for the project, illustrating typical electrical substation and transmission structures, and detailed routing maps were available for viewing, and staff members from Brazos Electric, Mid-South Synergy, and Cox|McLain Environmental Consulting, Inc. were available to answer questions. Photographs from both meetings and copies of the meeting handouts are included in Appendix B.

Meeting attendees were encouraged to complete and return questionnaires on-site. People were also provided with the option of completing questionnaires later and returning them by mail or email. Self-addressed, stamped envelopes were provided for those wishing to return them later by mail. Following the meeting, letters were sent to attendees thanking them for their interest in the project. Letters were also sent to those notified landowners who were unable to attend; these letters included the handouts given out at the public meetings. Copies of the letters are included in Appendix B. Communication with landowners and receipt of comments and questionnaires is ongoing. Comments received to date have focused primarily on opposition to specific alternatives adjacent to individual properties. Comments will be accepted throughout the NEPA and PUCT processes.

3.6 Next Steps in the Process

Brazos Electric will select multiple end-to-end alternatives to be submitted to the PUCT as part of a request for a Certificate of Convenience and Necessity (CCN). When the PUCT submittal takes place, Brazos Electric will notify affected landowners along the submitted alternatives and will provide information on how to be further involved in the transmission line review process at the PUCT. If approved by the PUCT, only one transmission line route and one substation will be constructed.

4.0 Affected Environment and Environmental Consequences

Environmental resources within the study area are described in detail in the following sections. While a specific alignment alternative has not been identified as the preferred alternative, conclusions regarding the environmental consequences of any of the potential routes are provided, along with potential regulatory requirements and mitigation issues as appropriate.

4.1 Land Use

GENERAL LAND USE

New right-of-way would be required for the proposed project. Construction of the substation would require approximately five acres of land, and the transmission line would require between approximately 110 and 140 acres, depending on the alternative chosen for construction.

The proposed improvements cross a primarily rural area generally consisting of hay fields, pasture land, wooded areas (including pine plantation), and the small communities of Singleton, Roans Prairie, Shiro, West Sandy/San Jacinto and Richards. The project study area contains residences, businesses, places of worship, and cemeteries. The Sam Houston National Forest borders the project study area to the south/southeast, but would not be crossed by any of the proposed transmission line alternatives.
A number of existing transmission lines cross through the project study area. The Tenaska Frontier Generation Plant is located in the northwestern portion of the project area. **Figures 5a and 5b** show the preliminary alternative alignment routes on an aerial photograph and include various land uses that could pose potential constraints.
Brazos Electric intends to avoid direct impacts to habitable structures, including residences, businesses, places of worship, schools, hospitals, nursing homes, or other structures occupied by humans on a regular basis. As such, no relocations or displacements would occur as a result of the proposed project. The selected alignment will minimize the number of habitable structures within 300 feet of the transmission line centerline to the extent reasonable and feasible.
IMPORTANT FARMLAND, PRIME FOREST LAND, AND PRIME RANGELAND
The Farmland Protection Policy Act (FPPA), as detailed in Subtitle I of Title XV of the Agricultural and Food Act of 1981, provides protection to prime farmland, unique farmland, and farmland of local or statewide importance.

The Natural Resources Conservation Service (NRCS) does not normally consider transmission lines to be a conversion of farmland because the site can still be used for agricultural purposes after construction. Each proposed substation location (which would involve a conversion) was examined to determine whether any prime farmlands occur within them. The three northernmost substation alternatives (which adjoin route segments D18, D21, and F7) contain Annona association soils, which are not classified as prime farmland (NRCS, 2012). The southernmost substation alternative (which adjoins route segment F24) contains Annona association and Gladewater clay soils (NRCS, 2012), which are not classified as prime farmland soils. The NRCS has evaluated the proposed sites as required by the FPPA and has determined that the proposed project does not contain Important Farmland Soils (see Appendix B).

No prime forest land or prime rangeland occurs within the project area. No impact to protected forest land (National Forest land) would occur due to the proposed construction.

The project has the potential to impact soils through erosion and compaction. Construction of the proposed project will be conducted in such a way as to minimize, to the extent possible, soil erosion hazards. To prevent erosion from occurring, vegetation and/or mulches will be used in conjunction with sediment retention structures such as straw bale dikes and filter fabric fences, which trap sediment before it can enter a watercourse. In addition, a vegetative buffer zone will be maintained along streams. Monitoring and maintenance of these structures and activities will ensure proper performance. If it appears that erosion may become a problem at any of the project sites, BEPC will consult the local NRCS office for advice on erosion control. BEPC is committed to follow any reasonable recommendations by the Texas Commission on Environmental Quality (TCEQ) regarding erosion control as it regards water quality.

FORMALLY CLASSIFIED LANDS
The Sam Houston National Forest borders the project study area to the south and east. The forest would not be impacted by the proposed project. A coordination letter was sent to the Sam Houston National Forest; a copy of the response is included in Appendix B.

4.2 Floodplains
The various project alternatives cross floodplains associated with Sulphur Creek, Lake Creek, and West Sandy Creek and its branches (including Rocky Branch, Dennis Branch, Clear Branch, and Gum Branch). Creeks would be spanned by the proposed transmission line, and no impacts to floodplains are anticipated. In the event that a new transmission structure would need to be sited within a floodplain, BEPC would consult with the local floodplain administrator as appropriate. See Figure 6.
4.3 Wetlands
Impacts to wetlands and other waters of the U.S. are subject to the jurisdiction of the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act, which regulates the discharge of dredged or fill material into waters of the U.S.

Potential wetlands and waters of the U.S. were identified using NRCS county soil surveys for Grimes, Montgomery, and Walker Counties, National Wetlands Inventory (NWI) maps, aerial photos, and U.S. Geological Survey (USGS) topographic maps. According to the USGS topographic maps for the project area, Sulphur Creek, Lake Creek, Flagtail Creek, Cat Creek, Mooring Creek, Pine Creek, Caney Creek, and West Sandy Creek and its branches (including Lee Branch, Lucas Branch, Rocky Branch, Dennis Branch, Clear Branch, and Gum Branch) occur within the project study area and may be crossed by various project alternatives. A number of NWI wetlands are found within the project study area; many of these are indicative of small ponds associated with agricultural properties. Water resources in the project vicinity are depicted on Figure 6.

The proposed right-of-way for the selected alignment will be investigated for the presence of wetlands and other waters of the U.S. when a final route is selected. At that time, a field wetland/water of the U.S. delineation would take place which will determine whether any USACE permits would be required. Efforts will be made to span all creeks as much as is practicable, so as to avoid impacting waters of the U.S. and any adjacent wetlands that may be present. Copies of coordination letters between BEPC and the USACE are found in Appendix B.

No navigable waters are found within the project study area, and no Section 9 or Section 10 permits would be required (as defined in the Rivers and Harbors Act).

4.4 Cultural Resources
A search of the Sites Atlas maintained by the Texas Historical Commission (THC) and the Texas Archeological Research Laboratory (TARL) was conducted in order to identify archeological sites, State Archeological Landmarks (SALs), historical markers, properties or districts listed on the National Register of Historic Places (NRHP), cemeteries, or other cultural resources that may have been previously recorded in or near the project study area (THC, 2012).

Four resources were found adjacent to potential project elements, with “adjacent” defined as occurring within the 300-foot buffer established around potential substation locations and transmission line route segments within the study area. Archeological site 41GM418 consists of a brick-lined nineteenth-century well located adjacent to route segment F1. The site record notes that Native American artifacts were reportedly found at the site in the past but that none have been found recently. No further archeological research was recommended for the site, although the recorder did recommend deed and other archival research to investigate a possible association with Stephen F. Austin’s original group of 300 colonists. The other three resources adjacent to route segments are cemeteries: an unknown cemetery along segment F3, the Brushy Cemetery along A11, and David
Chapel Cemetery along segment F4. BEPC is aware of the THC’s internal rule requiring scraping/trenching if the ground is to be disturbed within 75 feet of a historic-age cemetery; support structures for the transmission line will either be sited outside a 75-foot buffer around the cemeteries or, if that is not possible due to engineering requirements, scraping/trenching will be undertaken at excavation locations.

The study area was found to contain 35 additional known cultural resources, including 23 archeological sites (one of which is a separately-listed cemetery), four historical markers, and nine cemeteries.

These resources are listed below, along with any relevant information drawn from the database search (THC, 2012). None of the alignment alternatives would impact any recorded archeological site or NRHP property. All are located more than 300 feet from potential substation locations or transmission line route segments.

- Archeological sites:
  - 41GM6 – flakes, pottery; no further work
  - 41GM59 – lithics, potsherds; recommended for testing in 1970s
  - 41GM60 – lithics found to be nonartifactual after further analysis
  - 41WM210 – Unknown site; Atlas data is incomplete
  - 41WM298 – designated SAL, Burnett Ranch; relatively undisturbed site with prehistoric occupations spanning multiple periods
  - 41GM307 – historic farmstead, potentially NRHP-eligible
  - 41GM308 – historic cisterns, no further work
  - 41GM309 – Poteet house, potentially NRHP-eligible
  - 41GM310 – prehistoric, noted as potential SAL but no results given to support the recommendation
  - 41GM326 – minor lithics, no further work
  - 41GM341 – minor lithics, no further work
  - 41GM342 – minor lithics, no further work
  - 41GM343 – minor lithics, no further work
  - 41GM344 – minor lithics, no further work
• 41GM345 – unknown site, incomplete record
• 41GM346 – minor lithics, no further work
• 41GM347 – minor lithics, no further work
• 41GM348 – minor lithics, no further work
• 41GM350 – minor lithics, no further work
• 41GM354 – Atlas record says no further work was recommended but mentions likelihood of intact features
• 41GM355 – minor lithics, no further work
• 41GM358 – Singleton Cemetery, with earliest burials from the 1920s
• 41GM361 – minor prehistoric pottery

• Historical markers:
  • Bay’s Chapel Methodist Church
  • Anthony Drew Kennard
  • Shiro Presbyterian Church
  • Oakland Baptist Church

• Cemeteries:
  • Midway
  • Roan Family
  • Singleton (also 41GM358)
  • Red Top
  • Henderson Family
  • Shiro and Spanish
  • Bay’s Chapel
  • Lee
  • Farris
The list above cannot be considered an exhaustive catalog of the existing cultural resources within the study area. According to survey coverage data mapped in the Atlas, only approximately five percent of the study area has been covered by formal archeological surveys. Concentrated in the northwest part of the study area, these mining-related large-area projects were undertaken by various entities from the 1970s through the 1990s. Coordination with the THC will be undertaken when a preferred alignment is selected, and an archeological survey of that alignment will be undertaken as requested by the THC.

4.5 Threatened and Endangered Species

Federally-listed threatened/endangered species and their habitats are protected under the Endangered Species Act of 1973, as amended. Individuals of state-listed species are protected under state law, although their habitats are not currently given regulatory protection.

Table 3 contains a list of state and federally-listed threatened or endangered species of potential occurrence in Grimes, Montgomery, and Walker Counties, Texas, along with their listing status, habitat description, and a determination of whether appropriate habitat for the species was identified within the project area during the field assessment.

<table>
<thead>
<tr>
<th>Species</th>
<th>Federal Status</th>
<th>State Status</th>
<th>Species/Habitat Description</th>
<th>Habitat Present?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navasota ladies'-tresses</td>
<td>E</td>
<td>E</td>
<td>Endemic; openings in post oak woodlands in sandy loams along upland drainages or intermittent streams, often in areas with suitable hydrologic factors, such as a perched water table associated with the underlying claypan; flowering late October-early November or December; individual plants do not flower every year</td>
<td>The project area will be investigated to determine whether habitat for this species exists once the final route is selected. The project study area contains numerous woodland areas and streams on fine sandy loam soils.</td>
</tr>
<tr>
<td><em>Spiranthes parksii</em></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Mollusks</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>False spike mussel</td>
<td>NL</td>
<td>T</td>
<td>Possibly extirpated in Texas; medium to large rivers; substrates vary from mud through mixtures of sand, gravel, and cobble; water lilies may be present</td>
<td>No – The species is most likely extirpated; no rivers occur within the project area.</td>
</tr>
<tr>
<td><em>Quadrula mitchelli</em></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Louisiana pigtoe</td>
<td>NL</td>
<td>T</td>
<td>Streams and moderate-size rivers; flowing water over mud, sand, and gravel</td>
<td>This species could occur within project area streams, if present within the right-of-way for the selected final alternative.</td>
</tr>
<tr>
<td><em>Pleurobema riddellii</em></td>
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</tr>
</tbody>
</table>
### Table 3: Threatened or Endangered Species of Potential Occurrence in Grimes, Montgomery, and Walker Counties, Texas

<table>
<thead>
<tr>
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<th>Species/Habitat Description</th>
<th>Habitat Present?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sandbank pocketbook</td>
<td>NL</td>
<td>T</td>
<td>Small to large rivers with moderate flows and swift current over gravel, gravel-sand, and sand</td>
<td>No – No rivers occur within the project area.</td>
</tr>
<tr>
<td><em>Lampsilis satira</em></td>
<td></td>
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</tr>
<tr>
<td>Smooth pimpleback</td>
<td>C</td>
<td>T</td>
<td>Small to moderate streams and rivers as well as moderate size reservoirs; mixed mud, sand, and fine gravel; tolerates slow to moderate flow rates; does not tolerate dramatic water level fluctuations, scoured bedrock substrates, or shifting sand bottoms</td>
<td></td>
</tr>
<tr>
<td><em>Quadrula houstonensis</em></td>
<td></td>
<td></td>
<td>This species could occur within project area streams, if present within the right-of-way for the selected final alternative.                                                                 │</td>
<td></td>
</tr>
<tr>
<td>Texas fawnsfoot</td>
<td>C</td>
<td>T</td>
<td>Little known; possibly rivers and larger streams, and intolerant of impoundment; flowing rice irrigation canals, possibly sand, gravel, and perhaps sandy-mud bottoms in moderate flows</td>
<td></td>
</tr>
<tr>
<td><em>Truncilla macrodon</em></td>
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<td></td>
<td>This species could occur within project area streams, if present within the right-of-way for the selected final alternative.</td>
<td></td>
</tr>
<tr>
<td>Texas heelsplitter</td>
<td>NL</td>
<td>T</td>
<td>Quiet waters in mud or sand and also in reservoirs</td>
<td></td>
</tr>
<tr>
<td><em>Potamilus amphichaenus</em></td>
<td></td>
<td></td>
<td>This species could occur within project area streams, if present within the right-of-way for the selected final alternative.</td>
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</tr>
<tr>
<td>Texas pigtoe</td>
<td>NL</td>
<td>T</td>
<td>Rivers with mixed mud, sand, and gravel from all habitats except deep shifting sands; moderate to swift current velocities</td>
<td>No – No rivers occur within the project area.</td>
</tr>
<tr>
<td><em>Fusconaia askewi</em></td>
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<tr>
<td>Fishes</td>
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</tr>
<tr>
<td>Blue sucker</td>
<td>NL</td>
<td>T</td>
<td>Larger portions of major rivers; channels and flowing pools with moderate current; substrate of exposed bedrock, perhaps in combination with hard clay, sand, and gravel; adults winter in deep pools and move upstream in spring to spawn on riffles</td>
<td></td>
</tr>
<tr>
<td><em>Cycleptus elongatus</em></td>
<td></td>
<td></td>
<td>No – No rivers occur within the project area.</td>
<td></td>
</tr>
<tr>
<td>Creek chubsucker</td>
<td>NL</td>
<td>T</td>
<td>Small rivers and creeks of various types; seldom in impoundments; prefers headwaters, but not usually found in springs; young in headwaters or marshes; spawns in rover mouths or pools, riffles, lake outlets, upstream creeks</td>
<td></td>
</tr>
<tr>
<td><em>Erimyzon oblongus</em></td>
<td></td>
<td></td>
<td>This species could occur within project area streams, if present within the right-of-way for the selected final alternative.</td>
<td></td>
</tr>
<tr>
<td>Species</td>
<td>Federal Status</td>
<td>State Status</td>
<td>Species/Habitat Description</td>
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<tr>
<td><strong>Table 3: Threatened or Endangered Species of Potential Occurrence in Grimes, Montgomery, and Walker Counties, Texas</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>Reptiles</strong></td>
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<td></td>
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</tr>
<tr>
<td>Paddlefish <em>Polyodon spathula</em></td>
<td>NL</td>
<td>T</td>
<td>Prefers large, free-flowing rivers, but will frequent impoundments with access to spawning sites; spawns in fast, shallow water over gravel bars</td>
<td>No – No rivers occur within the project area.</td>
</tr>
<tr>
<td>Sharpnose shiner <em>Notropis oxyrhynchus</em></td>
<td>C</td>
<td>SOC</td>
<td>Large turbid river, with substrate a combination of sand, gravel and clay-mud</td>
<td>No – No rivers occur within the project area.</td>
</tr>
<tr>
<td><strong>Birds</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>American peregrine falcon <em>Falco peregrinus anatum</em></td>
<td>DL</td>
<td>T</td>
<td>Potential migrant across state from northern breeding areas in U.S. and Canada; winters along Texas coast; stopovers at leading landscape edges such as lake shores, coastlines, and barrier islands</td>
<td>No – The species could migrate through the project area, but nesting and wintering habitat is not present.</td>
</tr>
<tr>
<td>Bachman’s sparrow <em>Aimophila aestivalis</em></td>
<td>NL</td>
<td>T</td>
<td>Open pine woods with scattered bushes and grassy understory in Pinewoods; nests on ground against grass tuft or under low shrub</td>
<td>This species could occur within project area woodlands.</td>
</tr>
<tr>
<td>Bald eagle <em>Haliaeetus leucocephalus</em></td>
<td>DL</td>
<td>T</td>
<td>Found primarily near rivers and large lakes; nests in tall trees or on cliffs near water</td>
<td>No – The species could migrate through the project area, but nesting and wintering habitat is not present.</td>
</tr>
<tr>
<td>Species</td>
<td>Federal Status</td>
<td>State Status</td>
<td>Species/Habitat Description</td>
<td>Habitat Present?</td>
</tr>
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<td>--------------------------------------------</td>
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<td>------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Interior least tern <em>Stern a a thalassos</em></td>
<td>E</td>
<td>E</td>
<td>Subspecies listed only when inland (more than 50 miles from coastline); nests along sand and gravel bars within braided streams, rivers; also nests on man-made structures</td>
<td>No – Streams within the project area would be spanned, which would avoid affecting any habitat for the species if it is present.</td>
</tr>
<tr>
<td>Piping plover <em>Charadrius melodus</em></td>
<td>T</td>
<td>T</td>
<td>Wintering migrant along Texas Gulf Coast; beaches and bayside mud or salt flats</td>
<td>No – The species could migrate through the project area, but nesting and wintering habitat is not present.</td>
</tr>
<tr>
<td>Red-cockaded woodpecker <em>Picoides borealis</em></td>
<td>E</td>
<td>E</td>
<td>Cavity nests in old pine trees (60 years or older); forages in younger pine trees (30 years or older); prefers longleaf pine, shortleaf pine, and loblolly pine</td>
<td>No – Although occurrences of the species have been recorded at the Sam Houston National Forest south of the project area, the managed pine forests within the project study area generally do not contain stands of mature trees required for nesting (will be confirmed for the selected route).</td>
</tr>
<tr>
<td>Sprague’s pipit <em>Anthus spragueii</em></td>
<td>C</td>
<td>SOC</td>
<td>Only in Texas from mid-September to early April; native upland prairie; coastal grasslands; sensitive to patch size and avoids edges</td>
<td>No – No large stands of native prairie without edge habitat occur within the project study area. Most grasslands within the study area consist of a mixture of native and introduced species.</td>
</tr>
<tr>
<td>White-faced ibis <em>Pleagadis chihi</em></td>
<td>NL</td>
<td>T</td>
<td>Prefers freshwater marshes, sloughs, and irrigated rice fields; will attend brackish and saltwater habitats; nests in marshes, in low trees, on the ground in bulrushes or reeds, or on floating mats</td>
<td>No – No marshes, sloughs, or rice fields occur within the project study area.</td>
</tr>
<tr>
<td>Whooping crane <em>Grus americana</em></td>
<td>E</td>
<td>E</td>
<td>Potential migrant via plains throughout most of state to coast; stopovers at wetlands, marshes, or croplands for feeding</td>
<td>No – The species could migrate through the project area, but nesting and wintering habitat is not present.</td>
</tr>
<tr>
<td>Wood stork <em>Mycteria americana</em></td>
<td>NL</td>
<td>T</td>
<td>Forages in prairie ponds, flooded pastures or fields, ditches and other shallow water, including saltwater; roosts communally in tall snags in active heronries; breeds in Mexico</td>
<td>This species could occur within the project area near ponds or other shallow water sources.</td>
</tr>
</tbody>
</table>
Table 3: Threatened or Endangered Species of Potential Occurrence in Grimes, Montgomery, and Walker Counties, Texas

<table>
<thead>
<tr>
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<th>State Status</th>
<th>Species/Habitat Description</th>
<th>Habitat Present?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mammals</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana black bear <em>Ursus americanus luteolus</em></td>
<td>T</td>
<td>T</td>
<td>Possible as transient; bottomland hardwoods and large tracts of inaccessible forested areas</td>
<td>No – No large tracts of inaccessible forested areas occur within the project study area.</td>
</tr>
<tr>
<td>Rafinesque’s big-eared bat <em>Corynorhinus rafinesquii</em></td>
<td>NL</td>
<td>T</td>
<td>Roosts in cavity trees of bottomland hardwoods, concrete culverts, and abandoned man-made structures</td>
<td>This species could occur within the project study area.</td>
</tr>
<tr>
<td>Red wolf <em>Canis rufus</em></td>
<td>E</td>
<td>E</td>
<td>Extirpated; formerly known throughout the eastern half of the state in brushy and forested areas, as well as coastal prairies</td>
<td>No – The species is extirpated.</td>
</tr>
</tbody>
</table>

Status:
E = Endangered
T = Threatened
DL = Delisted
C = Candidate for listing
NL = Not listed


A search of the Texas Parks and Wildlife Department’s Texas Natural Diversity Database (TXNDD) was conducted on October 23, 2011. Data were requested for the Bedias, Singleton, Roans Prairie, Richards, Loma, Steep Branch, Crabbs Prairie, Galilee, San Jacinto, Iola, Keith, and Carlos, Texas quadrangles, which includes the project area and surrounding vicinity. No occurrences of threatened, endangered, or rare species were identified within any of the proposed substation or route segment alternative locations (TPWD, 2011). Two occurrences of Navasota ladies’-tresses (*Spiranthes parksii*) have been reported within the project study area, to the west of Hwy 90; numerous additional occurrences of the species have been reported west of the project study area boundary (TPWD, 2011). Numerous red-cockaded woodpecker (*Picoides borealis*) occurrences have been reported within the Sam Houston National Forest to the south/southeast of the project area. Bald eagles (*Haliaeetus leucocephalus*) have been reported at Gibbons Creek Reservoir, located to the west of the project study area, and at Lake Conroe, located southeast of the project study area.

Federally-listed species and their habitats are protected under the Endangered Species Act of 1973, as amended. No designated critical habitat for any federally-listed species occurs in the project vicinity. The project area would be investigated for the presence of any individuals of/habitat for Navasota ladies’-tresses, after a final route for the project is selected. No other habitat for federally-listed species occurs within the project study area. It is anticipated that Brazos Electric would avoid impacts to federally-listed species and their habitats, such that federally-listed species would not be affected by the proposed project.
Individuals of state-listed species are protected under state law. The following state-listed species could occur within project area streams: Louisiana pigtoe (*Pleurobema riddellii*), smooth pimpleback (*Quadrula houstonensis*), Texas fawnsfoot (*Truncilla macrodon*), Texas heelsplitter (*Potamilus amphichaenus*), creek chubsucker (*Erimyzon oblongus*), and alligator snapping turtle (*Macrochelys temmincki*). Bachman’s sparrow (*Aimophila aestivalus*) and the Louisiana pine snake (*Pituophis ruthveni*) could occur within project area woodlands. The Texas horned lizard (*Phrynosoma cornutum*), timber/canebrake rattlesnake (*Crotalus horridus*), wood stork (*Mycteria americana*), and Rafinesque's big-eared bat (*Corynorhinus rafinesquii*) could also occur within the project area. Impacts to individuals of these state-listed species, if they are observed within the project area during construction, will be avoided. If state-listed species are observed during construction, they would be allowed to safely leave the site or would be relocated by a permitted individual to a nearby area with similar habitat that would not be disturbed by construction.

In addition to the species listed in Table 2, 16 species of concern could also occur in Grimes, Montgomery, and Walker Counties, including four plants (branched gay-feather, *Liatris cymosa*; Correll’s false dragon-head, *Physostegia correllii*; Navasota false foxglove, *Agalinis navasotensis*; and Texas meadow-rue, *Thalictrum texanum*), four mollusks (creeper/squawfoot, *Strophitus undulatus*; fawnsfoot, *Truncilla donaciformis*; little spectaclecase, *Villosa lienosa*; and Wabash pigtoe, *Fusconaia flava*), four insects (two mayflies, *Tricoryhodes curvatus* and *Plauditus gloveri*; Gulf Coast clubtail, *Gomphus modestus*; and Texas emerald dragonfly, *Somatochlora margarita*), two birds (arctic peregrine falcon, *Falco peregrinus tundrius*, and Henslow’s sparrow, *Ammodramus henslowii*), and two mammals (plains spotted skunk, *Spilogale putorius interrupta*, and southeastern myotis bat, *Myotis austroriparius*). Species of concern are locally rare, but are not currently listed as threatened or endangered at either the state or federal levels and do not receive regulatory protection.

### 4.6 Fish and Wildlife Resources

The project area is located on the boundary between the Austroriparian and Texan biotic provinces (see Figure 7).

The proposed project would not significantly impact fish and wildlife resources relating to stream or river flow impedence, forest fragmentation, or hunting and fishing pressure due to increased access. Potential effects to fish or wildlife resources due to construction include runoff of sediment, herbicides, chemicals, or oil into watercourses. During construction, erosion control measures will be employed to prevent and/or minimize soil erosion, siltation, and nutrient loading of the water resources. In addition, chemical sprays or herbicides shall only be used in areas designated for their use and in accordance with the manufacturer’s recommendations. No impacts to Essential Fish Habitat would occur.

Required clearing or other construction-related activities may directly and/or indirectly affect animals that reside on or adjacent to the project right-of-way. Heavy machinery could kill small, low-mobility animals or could cause soil compaction, impacting animals that live underground. Larger, more mobile
Figure 7
Biotic Province and Natural Region
species will typically avoid construction activities and move into adjacent areas. In order to minimize disturbance to inert microhabitats (i.e., snags, brush piles, fallen logs), clearing within the right-of-way should be minimized as much as practicable.

Raptor electrocution is one of the major concerns of the U.S. Fish and Wildlife Service and Texas Parks and Wildlife Department related to transmission lines. Raptors, including eagles, falcons, owls, kites, ospreys, and vultures, are afforded protection under the Endangered Species Act of 1973, as amended, the Bald and Golden Eagle Protection Act of 1940, as amended, and the Migratory Bird Treaty Act (MBTA) of 1918. Electrocution occurs when the distance between energized and/or grounded structures, conductors, hardware, or equipment is bridged by the birds to complete a circuit. Generally, the phase-to-phase and phase-to-ground spacing on transmission lines should be greater than the wrist-to-wrist or head-to-foot distance of a bird in order to prevent electrocution. Topography, vegetation, and proximity are important factors considered by BEPC during pre-construction planning to mitigate collisions of raptors and other birds with transmission lines, substations, switching stations, and associated ancillary equipment. In order to reduce raptor electrocutions, transmission lines and support structures will be designed and constructed in accordance with Suggested Practices for Raptor Protection on Power Lines, the State of the Art in 2006 by the Avian Power Line Interaction Committee. Further, BEPC is committed to following raptor protection procedures as outlined in Mitigating Bird Collisions with Power Lines, a publication of the Avian Power Line Interaction Committee for the Edison Electric Institute (1994).

In order to comply with the MBTA, BEPC will attempt to avoid impacts to migratory bird nests by minimizing tree and brush removal within the nesting season (March through August). If clearing is unavoidable during migratory bird nesting season, qualified biologists would survey the area proposed for construction in order to ensure no nests with eggs or young would be disturbed. Vegetation containing occupied nests should not be disturbed until eggs have hatched and young have fledged. Old, empty nests may be removed outside of nesting season in areas scheduled for clearing to prevent reuse of old nests.

4.7 Vegetation

The project is located at the junction of three natural regions as delineated by Gould (1960) – the Pineywoods, Post Oak Savannah, and Blackland Prairie (see Figure 7). According to The Vegetation Types of Texas, vegetation of the project area is mapped as “Pine Hardwood”, “Young Forest/Grassland”, and “Other Native and/or Introduced Grasses” (see Figure 8) (McMahan et. al, 1984).

Approximately five acres of vegetation would be removed for construction of the proposed Sandy substation, and between 110 and 140 acres of vegetation could potentially be removed or modified for construction of the proposed transmission line, depending on the route selected. Vegetation observed within the project area generally consists of woodlands, grasslands, and pine plantations. No rare vegetation types were observed within the project area.
PHOTO 5 WOODLAND VEGETATION WITHIN THE PROJECT STUDY AREA

PHOTO 6 PINE PLANTATION WITHIN STUDY AREA
Mitigation for loss of vegetation will consist of minimization of impacts as much as practicable. Landscaping is not part of the proposed project. Disturbed areas will be revegetated using native species as much as and as quickly as practicable. When the use of native seed mixes is not feasible, bermuda grass should be used rather than bahiagrass. All revegetation will be in accordance with the Executive Memorandum on Beneficial Landscaping (April 26, 1994) and Executive Order 13112 on Invasive Species. The impact of the transmission line rebuild will be confined to the transmission line right-of-way. The right-of-way will be cleared of woody growth and clear space would be maintained for ease of access. EPA-approved herbicides, where applicable, will be applied by licensed/certified technicians to control woody vegetation (e.g., stumps) in compliance with Texas Department of Agriculture herbicide rules and regulations. Such applications shall not be made: a) when the ground is continuously frozen; b) adjacent to streams or other water bodies; or c) when the ground is saturated due to rainfall. Shredders will mow woody vegetation, and waste construction materials will be removed from the area.

Equipment will not be driven over vegetation when it is extremely wet, and heavy machinery will not be stored on vegetation for long periods of time. Protective mats will be placed within streambeds during construction to reduce the amount of soil and root disturbance and aid in the recovery of plants. Brush/tree burning is not anticipated as part of the proposed project; however, if it becomes necessary, any burning during construction will be conducted under carefully controlled safety conditions, as well as appropriate weather conditions, to minimize the danger of wildfires. More information regarding burning is found in Section 4.9 Air Quality.
4.8 Coastal Areas and Wild and Scenic Rivers
The proposed project lies outside of Texas’ Coastal Management Program boundary (CMP, 2006); therefore, construction of the transmission line does not require review of the project under the Coastal Barrier Resources Act or Coastal Zone Management Act.

The project would not impact any wild and scenic rivers, as defined by the National Park Service.

4.9 Air Quality
According to the TCEQ, Montgomery County is within the Houston-Galveston-Brazoria eight-hour ground-level ozone nonattainment area, which has failed to meet federal air quality standards. Walker and Grimes Counties are currently in attainment of federal air quality standards.

Little, if any, long-term air emissions should occur within the project area in association with the proposed project. However, emissions from construction vehicles, dust, and possible burning have the potential to occur during the construction phase of the project. The small number of construction vehicles used on the site should not contribute significantly to emissions within the project area. Dust will be suppressed and any necessary burning will be conducted under TCEQ Control of Air Pollution from Visible Emission and Particulate Matter, 30 TAC Subchapter B, Chapter 111.201-111.221. In addition, any burning will be conducted under carefully controlled safety conditions as well as during appropriate weather conditions, to minimize the danger of wildfires and to meet ambient air quality standards. Men and equipment will remain on site during any burning.

4.10 Water Quality
The project area is located over the Gulf Coast Aquifer (TWDB, 2006). No impacts to groundwater quality would be anticipated to occur as a result of the proposed project.

The project area lies within the Trinity and San Jacinto river basins. Water runoff from the project area flows to Lake Conroe, which is designated by the TCEQ as Water Quality Segment 1012 of the San Jacinto River basin, and to Lake Livingston, designated as Water Quality Segment 0803 of the Trinity River basin (TCEQ, 2004). According to the TCEQ’s 2010 Section 303(d) list, Segment 1012 is not designated as threatened or impaired; however, Segment 0803 is listed as impaired due to high sulfate levels and pH imbalance.

Lake Creek has been designated as an Ecologically Significant Stream Segment (ESSS) by the Texas Parks and Wildlife Department from the confluence with the West Fork of the San Jacinto River upstream to the Grimes/Montgomery County line. Lake Creek is crossed by the proposed project; however, the portion of the creek crossed by the project is outside of the segment of the creek that has been designated as ecologically significant.

Construction of the proposed project should have minimal or no adverse impacts to water quality. Erosion control measures should minimize soil erosion and resulting siltation, as well as any nutrient loading of the water resources. To prevent erosion from occurring, Best Management Practices (BMPs)
such as vegetation and/or mulches will be used in conjunction with sediment retention structures such as straw bale dikes and filter fabric fences, which trap sediment to prevent it from entering a watercourse. Monitoring and maintenance of these structures will ensure proper performance. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared and used in accordance with the TCEQ’s Texas Pollutant Discharge Elimination System (TPDES) program. Inspection of equipment by BEPC and/or its contractors for fluid leaks will become part of daily procedures to ensure no petroleum or other chemical products threaten watercourses within the project area.

When working near watercourses, care will be taken to minimize damage. If clearing within 25 feet of a permanent watercourse becomes necessary, it will be conducted by hand. Bulldozers will not be used. No clearing or construction will be done on banks of permanent tributaries. All appropriate and practicable measures will be taken to avoid adverse impacts to any aquatic ecosystems within the project area.

4.11 Aesthetics

No impacts to scenic highways, national forests, parks, or areas of high scenic beauty are anticipated. The project study area has several existing electrical transmission lines through it.
Brazos Electric has located the proposed routes such that they parallel existing rights-of-way and property lines as much as practicable, in accordance with PUCT recommendations for routing. Temporary impacts within the project area include views of construction machinery and clearing and construction of the substation and transmission line. Permanent impacts include views of the substation and transmission line. These adverse impacts will be minimized as much as possible by location and design. Brazos Electric is committed to following the guidelines in *Environmental Criteria for Electric Transmission Systems*, a joint publication of the USDA and U.S. Department of the Interior (1970).

4.12 Transportation

New transmission line crossings of state-maintained roads would be required for the proposed project (SH 30, SH 90, FM 1486, FM 3179 and/or FM 1791); therefore, Texas Department of Transportation (TxDOT) crossing permits would be acquired as necessary.

The Burlington-Northern-Santa Fe (BNSF) Railroad could be crossed by the proposed project; therefore, a railway crossing permit could be required. Route segments crossing the railroad include A1, B1, C1, C3, D3, and F3.

No private airfields are listed on Federal Aviation Administration (FAA) databases within the study area. One airfield was identified within the project study area at the intersection of route segments A6 and D7; however, according to recent aerial photographs, it does not appear to be in use. Construction of the substation and access road would have no impact on aviation activity. BEPC will notify airfields within 10,000 feet of the proposed centerline prior to construction activities and comply with Federal Aviation Administration (FAA) notification guidelines and/or permits if required.
Copies of coordination letters between BEPC and TxDOT are found in Appendix B.

### 4.13 Socioeconomic and Community Resources

As previously discussed, the proposed project consists of the construction of a new location substation and transmission line. The line would traverse parts of Grimes, Montgomery, and Walker Counties in East-Central Texas. As shown on Figure 9, there are numerous communities with small populations in the project area (Singleton, Roans Prairie, San Jacinto, and Shiro). Data for these towns are included within the Census Tract data as well as county data. Table 4 provides race/ethnicity data for the project area.

<table>
<thead>
<tr>
<th>Table 4: Race/Ethnicity in the Project Area (2010)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>---------------------------------</td>
</tr>
<tr>
<td><strong>Total Population</strong></td>
</tr>
<tr>
<td>Not Hispanic</td>
</tr>
<tr>
<td><strong>White</strong></td>
</tr>
<tr>
<td><strong>Black or African-American</strong></td>
</tr>
<tr>
<td><strong>American Indian and Alaska Native alone</strong></td>
</tr>
<tr>
<td><strong>Asian</strong></td>
</tr>
<tr>
<td><strong>Native Hawaiian and Other Pacific Islander</strong></td>
</tr>
<tr>
<td><strong>Some Other Race</strong></td>
</tr>
<tr>
<td><strong>Two or More Races</strong></td>
</tr>
<tr>
<td><strong>Hispanic</strong></td>
</tr>
<tr>
<td><strong>Total Minority (non-white)</strong></td>
</tr>
<tr>
<td><strong>Source:</strong> 2010 Census Summary File 1—Texas [machine-readable data files]/prepared by the U.S. Census Bureau, 2011. Table P9.</td>
</tr>
</tbody>
</table>

In terms of race and ethnicity, the three tracts in the project area are predominantly white communities. The Black or African-American population ranges from 4.8 to 11.7 percent in project area Tracts, with County percentages ranging from 4.1 to 22.2 percent. Hispanic persons constitute between 6.6 and 12.2 percent of Tract populations compared to 16.8 to 21.2 percent at the County.
level. All other race/ethnicity categories show 2.1 percent or fewer minority persons and sometimes zero percent. The total minority percentages ranged from 16.3 percent (Tract 180301 in Grimes County) to 21.0 percent (Tract 790300 in Walker County) and ranged from 28.8 to 41.5 percent at the County level. All total minority population percentages in the project area were below the state of Texas’ overall percent minority of 54.7% in 2010.

Table 5 shows that there are close to 2,000 households in the two project area tracts in Grimes County, just over 1,000 households in the tract in Montgomery County, and close to 3,500 in the tract in Walker County based on American Community Survey (ACS) 2006-2010 data. In 2010 inflation adjusted dollars, the median household income was $53,560 in Tract 180301 (Grimes); $32,883 Tract 180302 (Grimes); $54,746 in Tract 694700 (Montgomery), and $54,988 in Tract 790300 (Walker). At the tract level, the median household income is higher in the project area than in Texas except for Tract 180302.

<table>
<thead>
<tr>
<th>Census 2010 Geography</th>
<th>Total Households</th>
<th>Median Household Income ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grimes County</td>
<td>8,366</td>
<td>39,429</td>
</tr>
<tr>
<td>Tract 180301</td>
<td>1,889</td>
<td>53,560</td>
</tr>
<tr>
<td>Tract 180302</td>
<td>1,682</td>
<td>32,883</td>
</tr>
<tr>
<td>Montgomery County</td>
<td>150,546</td>
<td>65,620</td>
</tr>
<tr>
<td>Tract 694700</td>
<td>1,268</td>
<td>54,746</td>
</tr>
<tr>
<td>Walker County</td>
<td>19,902</td>
<td>34,259</td>
</tr>
<tr>
<td>Tract 790300</td>
<td>3,457</td>
<td>54,988</td>
</tr>
<tr>
<td>Texas</td>
<td>8,539,206</td>
<td>49,646</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, 2006-2010 American Community Survey, Tables B11001 and B19013. ACS data are estimates; they are not counts. Income data is provided in 2010 inflation adjusted dollars.

Table 6 shows populations for whom the poverty status is determined and populations with income in the past 12 months below poverty level. For the ACS data, these estimates are statistical and include data for the years 2006 through 2010. In 2012, the federal poverty guideline (developed by the Department of Health and Human Services) was $23,050 for a family of four. It should be noted that none of the tracts in the project area had median household incomes below the 2012 poverty level (see Table 5), but there were some persons within all project area tracts who were living in poverty (Table 6).
Table 6: Populations in Poverty (ACS 2006-2010)

<table>
<thead>
<tr>
<th>Census 2010 Geography</th>
<th>Total Population For Whom Poverty Status is Determined</th>
<th>Population with Income in the past 12 months below poverty level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grimes County</td>
<td>22,560</td>
<td>3,577</td>
</tr>
<tr>
<td>Tract 180301</td>
<td>4,837</td>
<td>433</td>
</tr>
<tr>
<td>Tract 180302</td>
<td>4,504</td>
<td>440</td>
</tr>
<tr>
<td>Montgomery County</td>
<td>423,575</td>
<td>45,961</td>
</tr>
<tr>
<td>Tract 694700</td>
<td>3,297</td>
<td>408</td>
</tr>
<tr>
<td>Walker County</td>
<td>45,406</td>
<td>10,799</td>
</tr>
<tr>
<td>Tract 790300</td>
<td>7,959</td>
<td>395</td>
</tr>
<tr>
<td>Texas</td>
<td>23,707,679</td>
<td>3,972,054</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, 2006-2010 American Community Survey, Table B17001.
ACS data are estimates; they are not counts. Percentage of people whose income in the past 12 months is below the poverty level.

As shown in Table 7, the majority of homes in the project area are owner-occupied. In Tracts 180301 and 180302 (Grimes County), approximately 84 percent of homes are owner-occupied. In Tract 694700 (Montgomery County), approximately 86 percent of homes are owner-occupied, and in Tract 790300 (Walker County), approximately 85 percent are owner-occupied. This is a high ownership rate compared to 63.7 percent in the state as a whole.

Table 7: Occupancy Status (ACS 2006-2010)

<table>
<thead>
<tr>
<th>Census 2010 Geography</th>
<th>Occupied Housing Units</th>
<th>Owner Occupied</th>
<th>Renter Occupied</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>#</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Grimes County</td>
<td>8,902</td>
<td>3,264</td>
<td>36.7</td>
</tr>
<tr>
<td>Tract 180301</td>
<td>1,933</td>
<td>734</td>
<td>38</td>
</tr>
<tr>
<td>Tract 180302</td>
<td>1,371</td>
<td>583</td>
<td>42.5</td>
</tr>
<tr>
<td>Montgomery County</td>
<td>162,530</td>
<td>85,408</td>
<td>52.5</td>
</tr>
<tr>
<td>Tract 694700</td>
<td>1,245</td>
<td>586</td>
<td>47.1</td>
</tr>
<tr>
<td>Walker County</td>
<td>20,969</td>
<td>5,786</td>
<td>27.6</td>
</tr>
<tr>
<td>Tract 790300</td>
<td>3,371</td>
<td>1,486</td>
<td>44.1</td>
</tr>
<tr>
<td>Texas</td>
<td>8,922,933</td>
<td>3,728,987</td>
<td>41.8</td>
</tr>
</tbody>
</table>

Source: 2010 Census Summary File 1—Texas [machine-readable data files]/prepared by the U.S. Census Bureau, 2011. Table H4. U.S. Census Bureau, 2006-2010 American Community Survey Table B25077. ACS data are estimates; they are not counts.

Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”, dated February 11, 1994, requires the consideration of environmental justice issues during NEPA environmental reviews. These issues include: (1) analyzing for the potential of disproportionately high and adverse human health or environmental effects to minority and low-income populations; (2) providing opportunities for minority and low-income populations to participate in the NEPA process if these populations may be adversely affected; and, (3) identifying mitigation measures that would reduce adverse human health or environmental effects to minority and low-income populations.
The socioeconomic data previously provided indicates that – relative to the State of Texas – there is a lower percentage of minority persons in project area tracts compared to the overall counties and the State of Texas. Economic data show that the project area tracts and counties are not considered low-income based on median household income, although some people in project area tracts live below the poverty guideline.

The proposed power line does not traverse any densely populated areas. No residential relocations or business displacements would be required as a result of any of the proposed alignment alternatives. Throughout the project area, the line locations are in rural, undeveloped or lightly developed areas so communities of people will not likely be directly affected. The socioeconomic data provided here is intended as a backdrop for the proposed line construction. No adverse impacts are expected to occur to low-income and/or minority communities as a result of the project. Therefore, no disproportionate adverse effects are anticipated and the project complies with Executive Order 12898 on Environmental Justice.

The proposed projects should have minimal impact on local activities. The most obvious change that area residents will notice is the presence of a new substation and transmission line where one was not previously present. Furthermore, BEPC will consider the design of the structures in areas of close proximity to habitable structures, parks and recreation facilities, agricultural areas, airstrips, historical sites and other areas of human activity.

Furthermore, impacts to human activity could also be seen as beneficial. Minimal short-term local employment will be generated. BEPC uses its own employees or contract employees during the clearing and construction phases of the majority of these projects. As a result, a portion of the wages generated will filter into the local economy through purchases of fuel, food, and possibly lodging and building materials.

Potential long-term economic benefits to the community resulting from the construction of this project are based on the necessity of electric utilities to provide reliable power throughout the service area.

4.14 Noise, Radio, and Television Interference
No changes in noise levels or radio or television reception are anticipated. Noise levels after construction of the proposed project are not expected to vary perceptibly from existing conditions. Noise from construction activities will be temporary in nature, lasting only a few months. No adverse impacts are anticipated for radio or television reception; however, if any radio or television interference results from the proposed project, such interference would be rectified by BEPC. During the construction phase, noise abatement techniques such as work hour controls would be employed to minimize noise impacts. Work will be scheduled to avoid evening or weekend shifts that might result in noise impacts for neighboring residents.
4.15 Human Health and Safety
According to databases maintained by the Texas Commission on Environmental Quality (TCEQ), no superfund sites have been identified as occurring within or near the project area.

No potential hazardous materials (other than oil and gas production infrastructure) or signs of contamination were observed during preliminary field investigations. The observations made during the field assessment do not constitute a Phase I Environmental Site Assessment.

Presently, it does not appear that there is sufficient credible evidence to conclude that exposure to 60 hertz electromagnetic fields (EMFs) poses a significant risk to humans. Recent laboratory and epidemiological studies on EMFs have been conflicting and inconclusive. BEPC, however, will continue to monitor EMF research independently and in conjunction with the USDA Rural Utility Service (RUS) and the Public Utility Commission of Texas (PUCT). Furthermore, BEPC is committed to abide by any final rules or regulations regarding EMFs promulgated by the RUS, the PUCT, or other regulatory agencies having jurisdiction.

4.16 Cumulative Effects
If a project does not cause direct or indirect impacts on a resource, it will not contribute to a cumulative impact on that resource. As discussed in previous sections, the proposed action would not cause significant direct impacts. Indirect effects include those that are removed in time or distance; these are described briefly here as they pertain to determining resources assessed in the cumulative impacts analysis. Table 8 summarizes the direct, indirect, and cumulative impacts for each resource category potentially impacted.

<table>
<thead>
<tr>
<th>Resources Potentially Impacted</th>
<th>Category of Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Direct</td>
</tr>
<tr>
<td>Land use</td>
<td>Existing land uses would be converted for electrical transmission use. No relocations or displacements anticipated.</td>
</tr>
<tr>
<td></td>
<td>Indirect</td>
</tr>
<tr>
<td></td>
<td>Induced development as a result of substation and transmission line construction is unlikely.</td>
</tr>
<tr>
<td>Floodplains</td>
<td>No floodplain impacts anticipated.</td>
</tr>
<tr>
<td></td>
<td>Indirect</td>
</tr>
<tr>
<td></td>
<td>No indirect impacts anticipated.</td>
</tr>
<tr>
<td>Water resources (wetlands and water quality)</td>
<td>Cumulative</td>
</tr>
<tr>
<td></td>
<td>No cumulative impacts anticipated.</td>
</tr>
<tr>
<td></td>
<td>Indirect</td>
</tr>
<tr>
<td></td>
<td>Potential decreased water quality from stormwater runoff during construction phase.</td>
</tr>
<tr>
<td></td>
<td>Cumulative</td>
</tr>
<tr>
<td></td>
<td>Although water quality could continue to decline slightly in the region, the proposed project would not contribute to significant cumulative impacts to the area’s water resources.</td>
</tr>
</tbody>
</table>

Table 8: Summary of Direct, Indirect, and Cumulative Impacts Analyses
Table 8: Summary of Direct, Indirect, and Cumulative Impacts Analyses

<table>
<thead>
<tr>
<th>Resources Potentially Impacted</th>
<th>Category of Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Direct</td>
</tr>
<tr>
<td>Cultural resources</td>
<td>TARL search revealed 1 SAL within study area (Burnett Ranch) and 4 sites noted as possibly NRHP- or SAL-eligible. None of the above is within or adjacent to potential alignments. If required by THC, an archeological survey will be conducted for the preferred alignment.</td>
</tr>
<tr>
<td>Threatened and endangered species</td>
<td>No impacts to federally-listed species or state-listed species or their habitats anticipated at present.</td>
</tr>
<tr>
<td>Vegetation and wildlife habitat</td>
<td>Existing vegetation would be removed for construction and the 110-140 ac. right-of-way would be maintained such that it is clear of woody vegetation.</td>
</tr>
<tr>
<td>Air quality</td>
<td>Emissions limited to construction phase, primarily from construction vehicles; any brush burning would be done under controlled safety conditions.</td>
</tr>
<tr>
<td>Social and economic factors</td>
<td>No adverse impacts to low-income or minority communities. Impacts generally beneficial.</td>
</tr>
</tbody>
</table>

Indirect and cumulative impacts are discussed in more detail in the sections below.

INDIRECT IMPACTS
Any noise or air quality effects would be temporary in nature, confined to the construction phase of the project. In addition, water quality in the area could slightly decrease from stormwater runoff during the construction phase.

A positive net effect on the local economy is expected as a result of short-term local employment for construction crews.
No induced growth as a result of the project is anticipated.

CUMULATIVE IMPACTS
The extent that the construction of the proposed project would contribute to cumulative impacts depends on several factors, including distance from the project, other anticipated projects planned for the region, municipal planning and zoning regulations, and proximity and size of metropolitan areas.

No reasonably foreseeable actions are planned in the project vicinity.

The largely rural nature of the project area and the nature of the project (construction of a new electric substation and transmission line) make it unlikely that substantive land use impacts (positive or negative) would occur as a result of the proposed action. Water quality may decline slightly in the region, but the project would not contribute to significant cumulative impacts to the area's water resources. Socioeconomic effects would be positive, associated with continuing to supply reliable, economical electrical power for the citizens of the counties served by BEPC and their local partners (Mid-South Synergy).

The proposed project is not anticipated to cause any lasting direct or indirect effects on either the human or natural environment. The proposed project is not anticipated to result in significant cumulative impacts.

5.0 Summary of Mitigation and Monitoring Measures
Mitigation and monitoring commitments described below will be honored for the proposed project.

The project area would be investigated for the presence of any individuals of/habitat for Navasota ladies'-tresses, after a final route for the project is selected. Efforts will be made to avoid impacts to individuals of state-listed species, if they are observed within the project area during construction.

The project area would be investigated for the presence of any wetlands/waters of the U.S. after a final route for the project is selected. At that time, wetland/water of the U.S. delineation would take place and it would be determined whether any permits from the USACE would be required. If required, mitigation would be negotiated with the USACE and other resource protection agencies.

In order to reduce raptor electrocutions, structures will be designed and constructed in accordance with Suggested Practices for Raptor Protection on Power Lines, the State of the Art in 1996, Raptor Research Report No. 4 by the Raptor Research Foundation. Further, BEPC is committed to following avian protection procedures as outlined in Mitigating Bird Collisions with Power Lines, a publication of the Avian Power Line Interaction Committee for the Edison Electric Institute (1994). In order to comply with the Migratory Bird Treaty Act, BEPC will attempt to avoid impacts to migratory bird nests by minimizing tree and brush removal within the nesting season (March through August).
Disturbed portions of the site that are outside of active construction areas will be revegetated as much as practicable. All revegetation will be in accordance with the Executive Memorandum on Beneficial Landscaping (April 26, 1994) and Executive Order 13112 on Invasive Species.

If any unanticipated cultural materials or deposits are found at any stage during clearing, preparation, or construction, work should cease and THC personnel should be notified immediately.

If necessary, any burning will be conducted under TCEQ Control of Air Pollution from Visible Emission and Particulate Matter, 30 TAC Subchapter B, Chapter 111.201-111.221. In addition, burning will be conducted under carefully controlled safety conditions as well as during appropriate weather conditions, to minimize the danger of wildfires and to meet ambient air quality standards. Men and equipment will remain on site during any burning.

To prevent erosion from occurring, vegetation and/or mulches will be used in conjunction with sediment retention structures such as straw bale dikes and filter fabric fences, which trap sediment to prevent it from entering a watercourse. Monitoring and maintenance of these structures will ensure proper performance. A SWPPP will be prepared and used in accordance with the TCEQ’s TPDES program. Inspection of equipment by BEPC and/or its contractors for fluid leaks will become part of daily procedures to ensure no petroleum or other chemical products threaten watercourses within the project area. If it appears that erosion may become a problem within the project area, BEPC will consult the local NRCS office for advice on erosion control. BEPC is committed to follow any reasonable recommendations by the Texas Commission on Environmental Quality (TCEQ) regarding erosion control as it regards water quality.

New road and railway crossings would occur as a result of the proposed project; therefore, Texas Department of Transportation (TxDOT) road crossing permits and railway crossing permits would be acquired as necessary. BEPC will notify airfields within 10,000 feet of the project area prior to construction activities and comply with Federal Aviation Administration (FAA) notification guidelines and/or permits if required.

Work will be scheduled to avoid evening or weekend shifts that might result in noise impacts for neighboring residents. If any radio or television interference results from the proposed project, such interference would be rectified. Thorough clean-up and re-vegetation of the project area will take place after construction is completed to minimize effects on the aesthetics of the project area.

6.0 Literature/Publications Cited


### List of Agencies/Officials for Project Correspondence:

<table>
<thead>
<tr>
<th>Name of Contact / Title</th>
<th>Agency</th>
<th>Street Address</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
<th>Phone</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Bruseth, Ph.D.</td>
<td>Texas Historical Commission</td>
<td>P.O. Box 12276 Capitol Station</td>
<td>Austin</td>
<td>TX</td>
<td>78711</td>
<td>(512) 463-6100</td>
<td></td>
</tr>
<tr>
<td>Deputy State</td>
<td></td>
<td></td>
<td></td>
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<td>Officer</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Edith Erfling</td>
<td>Clear Lake Ecological Services Field Office U.S. Fish and Wildlife Service</td>
<td>17629 El Camino Real, Suite 211</td>
<td>Houston</td>
<td>TX</td>
<td>77058-3051</td>
<td>(512) 286-8282</td>
<td></td>
</tr>
<tr>
<td>Adam Zerrenner</td>
<td>Austin Ecological Services Field Office U.S. Fish and Wildlife Service</td>
<td>10711 Burnet Rd, Suite 200</td>
<td>Austin</td>
<td>TX</td>
<td>78758</td>
<td>(512) 490-0057</td>
<td></td>
</tr>
<tr>
<td>Kathy Boydston</td>
<td>Wildlife Habitat Assessment Program Texas Parks and Wildlife Department</td>
<td>4200 Smith School Road</td>
<td>Austin</td>
<td>TX</td>
<td>78744</td>
<td>(512) 389-4638</td>
<td><a href="mailto:Kathy.boydston@tpwd.state.tx.us">Kathy.boydston@tpwd.state.tx.us</a></td>
</tr>
<tr>
<td>Regulatory Branch, CESWG-PE-R U.S. Army Corps of Engineers Galveston District</td>
<td>2000 Fort Point Road P.O. Box 1229</td>
<td>Galveston</td>
<td>TX</td>
<td>77553-1229</td>
<td>(409) 766-3982</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stephen L. Brooks</td>
<td>CESWF-PE-R U.S. Army Corps of Engineers Fort Worth District</td>
<td>819 Taylor Street RM 3A37 PO Box 17300</td>
<td>Fort Worth</td>
<td>TX</td>
<td>76102-0300</td>
<td>(817) 556-1731</td>
<td></td>
</tr>
<tr>
<td>Salvador Salinas State Conservationist</td>
<td>Natural Resources Conservation Service</td>
<td>101 South Main</td>
<td>Temple</td>
<td>TX</td>
<td>76501</td>
<td>(254) 742-9800</td>
<td><a href="mailto:salvador.salinas@tx.usda.gov">salvador.salinas@tx.usda.gov</a></td>
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<td>Name of Contact / Title</td>
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<td>John Bertling</td>
<td>Grimes County Commissioner</td>
<td>P.O. Box 510</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
<td>(936) 394-8981</td>
<td><a href="mailto:bmjohn@windstream.net">bmjohn@windstream.net</a></td>
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<td>Randy Krueger</td>
<td>Grimes County Commissioner</td>
<td>8512 C.R. 204</td>
<td>Plantersville</td>
<td>TX</td>
<td>77363</td>
<td>(979) 830-5767</td>
<td><a href="mailto:r-krueger@earthlink.net">r-krueger@earthlink.net</a></td>
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<td>Julian Melchor, Jr.</td>
<td>Grimes County Commissioner</td>
<td>208 S. Judson</td>
<td>Navasota</td>
<td>TX</td>
<td>77868</td>
<td>(936) 873-3916</td>
<td><a href="mailto:compct3grimescty@yahoo.com">compct3grimescty@yahoo.com</a></td>
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<td>Pam Finke</td>
<td>Grimes County Commissioner</td>
<td>382 FM 149 West</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
<td>(936) 873-6408</td>
<td><a href="mailto:pam.finke@co.grimes.tx.us">pam.finke@co.grimes.tx.us</a></td>
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<td>Ronnie White</td>
<td>Walker County Commissioner</td>
<td>123 Booker Rd</td>
<td>Huntsville</td>
<td>TX</td>
<td>77340</td>
<td>(936) 295-6963</td>
<td><a href="mailto:rwhite@co.walker.tx.us">rwhite@co.walker.tx.us</a></td>
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<td>Mike Meador</td>
<td>Montgomery County Commissioner</td>
<td>510 Hwy 75 North</td>
<td>Willis</td>
<td>TX</td>
<td>77378</td>
<td>(936) 539-7815</td>
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<td>Judge Betty Shiflett</td>
<td>Grimes County Judge</td>
<td>P.O. Box 160</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
<td>(936) 873-4476</td>
<td><a href="mailto:betty.shiflett@co.grimes.tx.us">betty.shiflett@co.grimes.tx.us</a></td>
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<td>Judge Danny Pierce</td>
<td>Walker County Judge</td>
<td>1100 University Ave, Room 204</td>
<td>Huntsville</td>
<td>TX</td>
<td>77340</td>
<td>(936) 436-4910</td>
<td><a href="mailto:spiegoda@co.walker.tx.us">spiegoda@co.walker.tx.us</a></td>
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<td>Judge Alan B. Sadler</td>
<td>Montgomery County Judge</td>
<td>501 N Thompson</td>
<td>Conroe</td>
<td>TX</td>
<td>77301</td>
<td>(936) 539-7812</td>
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<td>David Fulton</td>
<td>Texas Department of Transportation, Aviation Division</td>
<td>125 E 11th St</td>
<td>Austin</td>
<td>TX</td>
<td>78701-2483</td>
<td>(512) 416-4501</td>
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<td>Director</td>
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<td>JaSal Morris</td>
<td>U.S. Forest Service</td>
<td>2221 N. Raguet St</td>
<td>Lufkin</td>
<td>TX</td>
<td>75904</td>
<td>(936) 639-8501</td>
<td><a href="mailto:mailroom_r8_texas@fs.fed.us">mailroom_r8_texas@fs.fed.us</a></td>
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<td>Acting Forest Supervisor</td>
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<td>Warren Oja</td>
<td>Sam Houston National Forest</td>
<td>394 FM 1375 West</td>
<td>New Waverly</td>
<td>TX</td>
<td>77358</td>
<td>(936) 344-6205</td>
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<td>District Ranger</td>
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December 27, 2011

James Bruseth, Ph.D.
Deputy State Historic Preservation Officer
Texas Historical Commission
P.O. Box 12276
Austin, TX 78711

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Dr. Bruseth:

Brazos Electric Power Cooperative, Inc. [BEPC] is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

Brazos Electric Power Cooperative requests the assistance of your office in identifying historic properties and archaeological sites that may be affected by the project. Please provide any recommendations you may have to mitigate or avoid these impacts.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
Larry Cox  
Cox/McLain Environmental Consulting  
6010 Balcones Drive, Suite 210  
Austin, Texas 78731

Re: Project review under Section 106 of the National Historic Preservation Act of 1966 and the Antiquities Code of Texas, Cultural Resources Survey Needed, For Proposed Transmission Line and Substation, in Grimes, Walker, and Montgomery Counties (PUC) (THC Tracking #201204841)

Dear Mr. Cox:

Thank you for the correspondence concerning the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission. As the state agency responsible for administering the Antiquities Code of Texas, these comments also provide recommendations on compliance with state antiquities laws and regulations.

The review staff, led by Marie Archambeault, has examined our records. Three previously recorded archaeological sites exist within the proposed study area. The study area is situated on a landform likely to contain additional archaeological sites, and has never been surveyed by a professional archeologist. We recommend that the project area be surveyed to identify historic properties that may be adversely affected by this development, in compliance with 36 CFR 800. If any buildings or structures 45 years old or older are located on or adjacent to the project area, please provide construction dates and photographs of each in the report.

The work should meet the minimum archaeological survey standards posted online at www.thc.state.tx.us. A report of investigations should be produced in conformance with the Secretary of Interior’s Guidelines for Archaeology and Historic Preservation, and submitted to this office for review. Shapefiles showing the boundaries of the project area and the areas actually surveyed should be submitted via email to archeological_projects@thc.state.tx.us. You may obtain lists of qualified archeologists in Texas online at: www.counciloftexasarcheologists.org or www.rranet.org. Please note that other potentially qualified archeologists not included on these lists may be used. If the survey is being performed on public land or within a public easement, an Antiquities Permit must be secured from our office before field work may begin.

Thank you for your cooperation in this review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions please contact Marie Archambeault by phone at 512.463.6043, or by email at marie.archambeault@thc.state.tx.us.

Sincerely,

[Signature]

Mark Wolfe  
State Historic Preservation Officer  
MW/ma
December 27, 2011

Edith Erfing
Clear Lake Ecological Services Field Office
U.S. Fish and Wildlife Service
17629 El Camino Real #211
Houston, Texas 77058-3051

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Ms. Erfing:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUC).

The proposed project does not represent a "major construction activity" as defined in 50 CFR 4402.02. We request a list of any federally listed or proposed threatened or endangered species and designated or proposed critical habitat that may be present in the project area. In addition, please advise us of any present concerns you may have related to possible effects of the project listed above on such species or critical habitat, as well as any other wildlife or wetland concerns.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmc lain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731 512.338.0223
Thank you for your request for threatened and endangered species information in the Clear Lake Ecological Services Office's area of responsibility. According to Section 7(a)(2) of the Endangered Species Act and the implementing regulations, it is the responsibility of each Federal agency to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any federally listed species.

Please note that while a Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment, the Federal agency must notify the U.S. Fish and Wildlife Service (Service) in writing of such designation. The Federal agency shall also independently review and evaluate the scope and contents of a biological assessment prepared by their designated non-Federal representative before that document is submitted to the Service.

A county-by-county listing of federally-listed threatened and endangered species that occur within this office's work area can be found at http://www.fws.gov/southwest/en/EndangeredSpecies/lists/default.cf.m. You should use the county-by-county listing and other current species information to determine whether suitable habitat for a listed species is present at your project site. If suitable habitat is present, a qualified individual should conduct surveys to determine whether a listed species is present.

After completing a habitat evaluation and/or any necessary surveys, you should evaluate the project for potential effects to the listed species and make one of the following determinations:

**No effect** – the proposed action will not affect federally listed species or critical habitat (i.e., suitable habitat for species occurring in the project county is not present in, or adjacent to, the action area). No coordination or concurrence with the Service is necessary. However, if the project changes or additional information on the distribution of listed or proposed species becomes available, the project should be reanalyzed for effects not previously considered.

**Is not likely to adversely affect** – the project may affect listed species and/or critical habitat; however, the effects are expected to be discountable, insignificant, or completely beneficial. Certain avoidance and minimization measures may need to be implemented in order to reach this level of effects. The Federal agency or the designated non-Federal representative should seek written concurrence from the Service that adverse effects have been eliminated. Be sure to include all the information and documentation used to reach your decision with your concurrence. The Service must have this documentation before issuing a concurrence.

**Is likely to adversely affect** – adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable, insignificant, or beneficial. If the overall effect of the proposed action is beneficial to the listed species but also likely to cause some adverse effect to individuals or that species, then the proposed action “is likely to adversely affect” the listed species. An “is likely to adversely affect” determination requires the Federal action agency to initiate formal Section 7 consultation with this office.

Regardless of your determination, the Service recommends that you maintain a complete record of the evaluation, including steps leading to the determination of affect, the qualified personnel conducting the evaluation, habitat conditions, site photographs, and any other related articles. The Service's Consultation Handbook is available online to assist you with further information on definitions, process, and fulfilling Endangered Species Act requirements for your projects at http://www.fws.gov/endangered/esa-library/pdf/esa_section7_handbook.pdf.

If we can further assist you in understanding a federal agency's obligations under the Endangered Species Act, please contact Donna Anderson, Moni Belton, Kelsey Goette, Jeff Hill, Charnish Stevens, or Arturo Vale at 281-286-8282.

Sincerely,

Edith Efling
Field Supervisor
December 27, 2011

Edith Erfling  
Clear Lake Ecological Services Field Office  
U.S. Fish and Wildlife Service  
17629 El Camino Real #211  
Houston, Texas  77058-3051

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Ms. Erfling:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

The proposed project does not represent a “major construction activity” as defined in 50 CFR 4402.02. We request a list of any federally listed or proposed threatened or endangered species and designated or proposed critical habitat that may be present in the project area. In addition, please advise us of any present concerns you may have related to possible effects of the project listed above on such species or critical habitat, as well as any other wildlife or wetland concerns.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox  
Principal

6910 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
December 27, 2011

Adam Zerrenner
Austin Ecological Services Field Office
U.S. Fish and Wildlife Service
10711 Burnet Rd, Suite 200
Houston, Texas 77078

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Zerrenner:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

The proposed project does not represent a “major construction activity” as defined in 50 CFR 4402.02. We request a list of any federally listed or proposed threatened or endangered species and designated or proposed critical habitat that may be present in the project area. In addition, please advise us of any present concerns you may have related to possible effects of the project listed above on such species or critical habitat, as well as any other wildlife or wetland concerns.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmc lain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
December 27, 2011

Kathy Boydston  
Wildlife Habitat Assessment Program  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, TX 78744

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Ms. Boydston:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

Brazos Electric Power Cooperative requests that your office review the proposed project for possible impacts to wetlands, threatened and endangered species, and other important State natural resources that may occur in the project area. Please provide any recommendations you may have to mitigate or avoid these impacts.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmc lain.com.

Sincerely,

Larry Cox  
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
February 1, 2012

Larry Cox
Cox McLain Environmental Consulting
6010 Balcones Drive, Suite 210
Austin, Texas 78731

RE: Brazos Electric Cooperative, Inc.
    Sandy Transmission Line and Substation Project
    Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Cox:

The Texas Parks and Wildlife Department (TPWD) has received your request for information regarding potential impacts to threatened and endangered species and for information on other issues of concern relating to the project referenced above. Under Section 12.0011 of the Texas Parks and Wildlife Code, TPWD is charged with "providing recommendations that will protect fish and wildlife resources to local, state, and federal agencies that approve, permit, license, or construct developmental projects" and "providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting these resources."

Please be aware that a written response to a TPWD recommendation or informational comment received by a state governmental agency on or after September 1, 2009 may be required by state law. For further guidance, see the Texas Parks and Wildlife Code, Section 12.0011 which can be found online at http://www.statutes.legis.state.tx.us/Docs/PW/chm/PW.12.htm#12.0011. For tracking purposes, please refer to TPWD project number 18859 in any return correspondence.

Project Description

Brazos Electric Power Cooperative, Inc. (BEPC) is proposing to construct a new transmission line and substation in Grimes, Walker, and Montgomery Counties. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138-kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

Vegetation Impacts

The project description does not include a summary of potentially impacted vegetation for the proposed line alternatives. However, after review of aerial imagery, it appears woody riparian vegetation could be impacted by the proposed project.

Recommendation: TPWD recommends that clearing of mature, native trees along the route be avoided. Loss of vegetation should be minimized by using site planning and construction techniques designed to avoid and preserve existing trees, shrubs, grasses, and forbs. For impacts that are unavoidable, TPWD recommends

To manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing and outdoor recreation opportunities for the use and enjoyment of present and future generations.
transplanting the existing trees or replacing them at a ratio of 3 saplings for every
tree lost. Whether transplanted or replaced, a survival of 85% should be achieved.
TPWD recommends that native plant and forage species that are beneficial to
wildlife endemic to the area be used in mitigation and landscaped areas.

Recommendation: TPWD recommends any proposed routes for line installation
through wooded areas should make every effort to follow existing rights-of-way
(ROW) in order to avoid additional clearing. This would help prevent adverse
impacts associated with habitat loss and fragmentation of existing blocks of wooded
habitat.

Federal regulation

Migratory Bird Treaty Act

In TPWD correspondence on previously approved Certificate of Convenience and
Necessity (CCN) applications, TPWD recommended that vegetation removal be avoided
during the primary migratory bird nesting season, March through August, to avoid adverse
impacts to this group. In the final order on these projects, the Commission found that
there was no evidentiary basis for requiring the transmission service provider to avoid all
clearing activities during the months of March through August (SOAH Docket No. 473-
10-0398, Findings of Fact 87D).

Recommendation: To avoid a violation of the MBTA, TPWD recommends that
measures should be taken to ensure that migratory bird species within and near the
project areas are not adversely impacted by construction and maintenance activities.
Please note that it is the responsibility of the project proponent to ensure compliance
with the MBTA. The US Fish and Wildlife Service (USFWS) Migratory Bird Office
can be contacted at (505) 248-7882 for more information on the MBTA.

If clearing vegetation during the migratory bird nesting season is unavoidable as
indicated above, TPWD recommends BEPC survey the area proposed for construction
to ensure that no nests with eggs or young will be disturbed by construction. Any
vegetation (trees, shrubs, and grasses) where occupied nests are located should not be
disturbed until the eggs have hatched and the young have fledged. Additional
measures to minimize impacts to migratory birds could include removing old, empty
nests outside of the nesting season in areas that are scheduled to be cleared; thereby
preventing reuse of old nests.

Endangered Species Act (ESA)

Federally-listed animal species and their habitat are protected from “take” on any property
by the ESA. Take of a federally-listed species can be allowed if it is “incidental” to an
otherwise lawful activity and must be permitted in accordance with Section 7 or 10 of the
ESA. Federally-listed plants are not protected from take except on lands under
federal/state jurisdiction or for which a federal/state nexus (i.e., permits or funding) exists. Any take of a federally-listed species or its habitat without the required take permit (or allowance) from USFWS is a violation of the ESA.

**Recommendation:** TPWD recommends that if rare species or their habitat would be impacted by the proposed project, the applicant should coordinate with TPWD and the USFWS, as appropriate, to determine avoidance, minimization, and mitigation strategies.

**Wetland Impacts**

The Clean Water Act (CWA) sets the basic regulatory framework for regulating discharges of pollutants to U.S. waters. Section 404 of the CWA establishes a federal program to regulate the discharge of dredged and fill material into waters of the U.S., including wetlands. The U.S. Army Corps of Engineers (COE) and the Environmental Protection Agency (EPA) are responsible for making jurisdictional determinations and regulating wetlands under Section 404 of the CWA. The COE also makes jurisdictional determinations under Section 10 of the Rivers and Harbors Act of 1899.

**Recommendation:** TPWD recommends avoiding adverse impacts to the wetlands and streams in the project area to the extent feasible. Unavoidable impacts to these sensitive features should be mitigated by compensating for the loss of wetland and stream habitat.

**Recommendation:** TPWD recommends BEPC prepare a mitigation plan to provide compensatory mitigation for those habitats where impacts cannot be avoided or minimized. This would include impacts to species and habitats covered under federal law (wetlands, streams and associated habitats, threatened or endangered species) and state resource habitat types not covered by state or federal law (riparian areas, native Prairies). At a minimum, TPWD recommends a replacement ratio of 1:1 for state resource habitat types. The wetland and stream mitigation plan should be developed in consultation with TPWD. Coordination of all impacts to the aquatic resources should be coordinated with Rebecca Hensley, TPWD Coastal Program; she can be reached at 281-534-0108.

**State Regulations**

*Ecologically Significant Stream Segments*

TPWD has identified Ecologically Significant Stream Segments (ESSSs) throughout the state to assist regional water planning groups in identifying ecologically unique stream segments under Texas Administrative Code Title 31 357.8. Until approved by the legislature this is not a legal designation. The stream segments are identified through extensive review by TPWD staff and are determined to be ecologically important due to one or more of the following criteria: biological function; hydrologic function; riparian
conservation areas; high water quality/exceptional aquatic life/high aesthetic value; or threatened or endangered species/unique communities. Additional information on ESSS may be found at http://www.tpwd.state.tx.us/landwater/water/environmentalwater_quality/index.aspx.

The proposed project could cross ESSSs Lake Creek and Nelson Creek.

**Recommendation:** If ground or water disturbing activities are to occur in or near an ESSS, every effort should be undertaken to preserve the biological, hydrological, aquatic life and aesthetic qualities that support the ESSS. Best management practices to avoid erosion, sedimentation, turbidity, stream bank, stream bed and vegetative disturbance should be developed and implemented to the greatest extent practicable. Such measures would include strict adherence to the Texas Commission on Environmental Quality Section 401 CWA Water Quality Certification, the Section 402 CWA Storm Water Pollutant Prevention Plan and the USACE Nationwide 14 Permit terms and conditions for mitigation, erosion and sediment control during the construction phase. Those measures include: use of double silt fencing in construction areas near creek drainages, avoiding clearing of stream bank and in-stream native vegetation, phasing work during dry periods, minimizing any stream bed disturbance and siting equipment storage areas well outside of the catchment area of the ESSS.

**Parks and Wildlife Code**

Section 68.015 of the Parks and Wildlife Code regulates state-listed species. Please note that there is no provision for take (incidental or otherwise) of state-listed species. A copy of TPWD Guidelines for Protection of State-Listed Species is attached for your reference. These guidelines include a list of penalties for the take of species. State-listed species may only be handled by persons with a scientific collection permit obtained through TPWD. For more information on this permit, please contact the Wildlife Permits Office at (512) 389-4647.

In TPWD correspondence on previously approved CCN applications, TPWD recommended that a permitted biological monitor be present during clearing and construction activities within habitat for state-listed species. In the final orders on these lines, the PUC found that the current practice, which is to employ a permitted biological monitor for only federally-listed species, is adequate and the transmission service provider is not required to hire an additional monitor for state-listed species (SOAH Docket No. 473-10-0398, page 3).

**Recommendation:** TPWD recommends a biological monitor be present during construction to try to relocate state-listed species. If the presence of a biological monitor during construction is not feasible as indicated above, state-listed threatened species observed during construction should be allowed to safely leave the site or relocated by a permitted individual to a nearby area with similar habitat that would not be disturbed during construction.
Rare Resources

Determining the actual presence of a species in a given area depends on many variables including daily and seasonal activity cycles, environmental activity cues, preferred habitat, transiency and population density (both wildlife and human). The absence of a species can be demonstrated only with great difficulty and then only with repeated negative observations, taking into account all the variable factors contributing to the lack of detectable presence.

The Texas Natural Diversity Database (TXNDD) is intended to assist users in avoiding harm to rare species or significant ecological features. Given the small proportion of public versus private land in Texas, the TXNDD does not include a representative inventory of rare resources in the state. Absence of information in the database does not imply that a species is absent from that area. Although it is based on the best data available to TPWD regarding rare species, the data from the TXNDD do not provide a definitive statement as to the presences, absence or condition of special species, natural communities, or other significant features within your project area. These data are not inclusive and cannot be used as presence/absence data. They represent species that could potentially be in your project area. This information cannot be substituted for on-the-ground surveys. The TXNDD is updated continuously based on new, updated and undigitized records; for questions regarding a record, please contact txnnd@tpwd.state.tx.us.

The following occurrences of rare and protected species within project boundaries were documented:

Federal and State Listed Endangered

Navasota ladies'-tresses (*Spiranthes parksii*)

Federal Candidate and State Listed Threatened

Louisiana Pine Snake (*Pituophis ruthveni*)

Mussels

On November 5, 2009, the Texas Parks and Wildlife Commission acted to place 15 native freshwater mussel species on the state-threatened species list.

**Recommendation:** TPWD recommends potentially impacted waterways within the range of state listed mussels be assessed for rare mussel habitat. Where suitable habitat is present, mussel surveys should be conducted prior to construction. Direct disturbance of habitat and degradation of water quality should be avoided where threatened mussels or their habitat are found.

**Recommendation:** TPWD recommends use of best management practices (BMPs) for riparian areas to minimize impacts on mussels as well as fish species which are the
mussel larval host. BMPs would include measures such as: 1) avoiding construction during fish and mussel spawning periods, 2) completing construction through the streambed during periods of drought when the stream is dry, and 3) use of double silt fences and doubling soil stabilization measures along the banks to avoid increasing the turbidity of the creek.

If mussel populations are present within the limits of the proposed project area, those populations should be protected from disturbance to the greatest extent possible. If disturbance of mussel beds cannot be avoided then the TPWD Wildlife Habitat Assessment Program (Tel. 512-389-4571) should be contacted for guidance on mitigation.

Water resources

Habitats Associated With Water Resources

The proposed project could cross Lake Creek and Nelson Creek. In association with this waterway, the proposed line would likely cross herbaceous, scrub/shrub, forested wetlands, bottomland forests, and riparian habitat. Wetlands, riparian areas, and bottomland forests generally provide habitat for local wildlife and protect waterways from sediment loads in runoff water. Riparian habitat is a priority habitat type targeted for conservation by TPWD across the state.

Recommendation: To minimize habitat fragmentation, TPWD recommends the transmission line be routed to run alongside existing utility corridors except where this would cause greater impact to wetland and riparian habitats or rare resources. The EA should indicate the locations where the proposed route would and would not run parallel to existing utility corridors.

Recommendation: TPWD recommends the alignment should be routed to avoid or minimize disturbance to wetland, bottomland forest and riparian areas, especially large contiguous tracts of quality habitats. When it is not feasible to avoid such habitats, the footprint of disturbance should be reduced as much as possible and crossings should be conducted perpendicular to linear stream and riparian habitats to reduce the amount of disturbance.

Recommendation: TPWD recommends only vegetation impeding construction be removed, that equipment should not be driven over vegetation when it is extremely wet, and heavy machinery should not be stored on vegetative cover for long periods of time. Protective mats should be placed within streambeds during construction to reduce the amount of soil and root disturbance and aid in the recovery of plants.

Recommendation: TPWD recommends the applicant minimize disturbance to inert microhabitats, i.e., snags, brush piles, fallen logs, creek banks, and pools as these provide habitat for a variety wildlife species and their food sources.
TPWD County Lists

The TPWD county lists for rare species may be obtained from the following link: http://gis.tpwd.state.tx.us/TpwdEndangeredSpecies/DesktopDefault.aspx. These lists provide information regarding rare species that have potential to occur within each county. Rare species could potentially be impacted if suitable habitat is present at or near the project site.

**Recommendation:** TPWD recommends the applicant refer to the county lists of rare species and use that information to determine which portions of the proposed project have potential habitat that would support rare species. These areas of potential habitat should be surveyed, using the techniques appropriate for each species, to determine the extent of the habitat. This will assist in determining the potential impacts and what permits might be required.

**Recommendation:** If rare species or their habitat would be impacted by the proposed project, TPWD recommends the applicant coordinate with this agency and the USFWS, as appropriate, to determine avoidance, minimization, and mitigation strategies.

**Recommendation:** TPWD recommends construction crews be informed of the rare species that have potential to occur in the project county and should avoid disturbance to sensitive species if encountered during construction. Only personnel with a TPWD scientific collection permit are allowed to handle and move state listed species. For further information on the required permit, please contact Chris Maldonado at (512) 389-4647.

**Comment:** Further consultation with TPWD would be warranted upon detection of a Texas listed rare, threatened, or endangered species within or near the proposed project at any time prior to or during construction.

Revegetation

For revegetation, TPWD recommends selection of species that are suited to the site conditions, ecoregion, and intended uses. TPWD also recommends use of native species which have multiple values and provide species diversity.

**Comment:** TPWD prefers that disturbed areas be restored to pre-construction contours and planted with a mixture of native herbaceous species, especially when the adjacent property on one or both sides of the pipeline ROW contains native species of vegetation. Introduction of non-native species into native landscapes should be prevented. Native perennial grass species preferred by TPWD for permanent cover include Switchgrass (Panicum virgatum), Eastern Gamagrass (Tripsacum dactyloides), Virginia Wildrye (Elymus virginicus), Canada Wildrye (E. canadensis), Yellow Indiangrass (Sorghastrum nutans) and Little Bluestem (Schizachyrium
scoparium). Other species appropriate for the area can be found by accessing the TPWD Texas Plant Information Database at [http://tpid.tpwd.state.tx.us/overview.asp](http://tpid.tpwd.state.tx.us/overview.asp) or by accessing the TPWD Wildscapes website at [http://www.tpwd.state.tx.us/huntwild/wild/wildscapes/](http://www.tpwd.state.tx.us/huntwild/wild/wildscapes/).

**Comment:** To verify successful revegetation and to determine the need for additional restoration, the applicant should conduct at least 2 years of post-construction monitoring.

**Recommendation:** In wetlands, TPWD recommends vegetation be allowed to reestablish naturally, though a three year monitoring plan to determine success should be conducted. Unsuccessful revegetation would require active planting with native wetland herbaceous and woody plant species in consultation with a professional wetland ecologist.

Project applicants typically propose seed mixes that contain primarily bermuda grass (*Cynodon dactylon*) and/or bahiagrass (*Pennisetum notatum*). Both of these grasses are non-native species that typically create a monoculture on the landscape and limit biodiversity, and are generally considered undesirable by TPWD.

Bahiagrass is considered undesirable from a wildlife perspective due to its invasive nature and lack of providing habitat for most wildlife. Once established, bahiagrass can thrive with little water and fertilizer and produces an abundance of seed. In habitat restoration, herbicide treatment may remove bahiagrass for one season, though eradication of bahiagrass is very difficult because of the seed that remains in the soil and its aggressive rhizome system. Without applications of fertilizer and lime, bermuda grass tends to diminish and other herbaceous species are able to compete, thus biodiversity increases. Additionally, eradication of bermuda grass with herbicide is more feasible than eradication of bahiagrass.

**Comment:** When the use of native seed mixes is not feasible, TPWD prefers the use of bermuda grass rather than bahiagrass for reasons mentioned above.

I appreciate the opportunity to provide preliminary input on potential impacts related to this project. Because the proposed route has not yet been identified, TPWD cannot provide specific comments on potential impacts to threatened and endangered species or general fish and wildlife resources. Please provide a copy of the Environmental Assessment (EA) to TPWD for review and comment prior to application to the Public Utilities Commission for a Certificate of Convenience and Necessity.
Mr. Larry Cox  
February 1, 2012  
Page 9 of 9

I appreciate the opportunity to review and comment on this environmental document. If you have any questions, please contact me at (361) 576-0022.

Sincerely,

Amy Turner, Ph.D.  
Wildlife Habitat Assessment Program  
Wildlife Division

/ajt:16869

Attachments

cc: Mohammed Ally  
Public Utility Commission of Texas  
1701 N. Congress  
P.O. Box 13326  
Austin, TX 78711-3326
Element Occurrence Record

Scientific Name: Spiranthes pinksii

Common Name: Navasota ladies'-tresses

Global Rank: G3

State Rank: S3

Occurrence #: 51

Eo Id: 2836

TX Protection Status: E

Location Information:

Watershed Code: 12070103

Watershed Description: Navasota

County Code: TX041M

County Name: Grimes

Mapsheet Code: 30095-E8

Mapsheet Name: Roan Prairie

State: TX

Mapsheet Code: 30096-E1

Mapsheet Name: Carlos

State: TX

Directions:
The general vicinity of these observations is SW of Singleton, S of CR 177 and NW of Roan Prairie, N of Hwy 30. The directions are generalized as this record consists of multiple observations.

Survey Information:

First Observation: 1985-11-06

Survey Date: 2008-11-05

Last Observation: 1991-11-02

Eo Type: EO Rank: E - Verified extant (viability not assessed)

EO Rank Date: 1991-11-02

Observed Area (acres): 0

Comments:

General Description: In 1986, all sites had a pine component. Two sites were described as pine upland with scattered hardwood; another as almost pure pine; and the other three as pine-hardwood woodland. Several sites had dense understory of shrubs. Yaupon was also mentioned for several sites. A couple of sites also had tall grasses. One site had a drainage eroded down to solid rock. The habitat description is a summary of multiple source features.

Comments: In 2006, a private landowner applied for a permit to create a 130 ac. lake within the area of occupied by this record. Two areas previously occupied by Spiranthes pinksii will be impacted. In 2009 mitigation plans were still in process. The sites represented by this record include TMPC 1985 survey site #s R17-17A, R21, S19, S23, S24, S26, S28 which are also permanent site #s 104, 108, 138, 142, 143, 145, 147, respectively. During the 1985 survey other Spiranthes species were observed in flower: a total of 84 S. cernua (woodland form), 41 S. cernua (peloric form), and 1 S. gracilis. This record represents the consolidation of EO #s 51, 52, and 57-61.

Protection Comments:

Management Comments:

Data:

EO Data: 28 Oct-6 Nov 1985: A total of 46 flowering S. pinksii were observed at 7 sites. 21 Oct-2 Nov 1991: Of the five sites surveyed, only one site had S. pinksii; four flowering plants were observed. 8-12 Nov 1993: No S. pinksii were observed at the two sites surveyed. 5 Nov 2008: No S. pinksii were observed at the two sites surveyed.
Element Occurrence Record

Site:
TMPA GIBBONS CREEK STATION

Managed Area:

Managed Area Name: 

Managed Area Type:

Reference:

Full Citation:
Parker, Kathleen. 1997. Letter of 21 November to Jackie Poole with new Spiranthes parksi populations.

Specimen:
Element Occurrence Record

Scientific Name: *Pituophis ruthveni* 

**Occurrence #:** 9  
**Eo Id:** 7458 

**Common Name:** Louisiana Pine Snake 

**TX Protection Status:** T 

**Global Rank:** G5T3 

**State Rank:** S1 

---

**Location Information:**

**Watershed Code:** 12040101 

**Watershed Description:** West Fork San Jacinto 

**County Code:** TXGRIM 

**County Name:** Grimes 

**Mapsheet Code:** 30095-F7 

**Mapsheet Name:** Loma 

**State:** TX 

**Directions:** 20.0 MI W, HIGHWAY 30, HUNTSVILLE 

---

**Survey Information:**

**First Observation:**  

**Survey Date:**  

**Last Observation:** 1976-04-24  

**Eo Type:**  

**EO Rank:**  

**Observed Area (acres):**  

---

**Comments:**

**General Description:**  

**Comments:** COLLECTED 24 APRIL 

**Protection Comments:**  

**Management Comments:**  

---

**Data:**

**EO Data:**  

**Site:**  

PINEYWOODS CONSERVATION INITIATIVE 

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**Managed Area:**

**Managed Area Name:**  

**Managed Area Type:**  

---

**Reference:**
Element Occurrence Record

Full Citation:

Specimen:
# Element Occurrence Record

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<th>Eo Id</th>
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<td><em>Spiranthes parksi</em></td>
<td>62</td>
<td>6459</td>
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<td>Navasota ladies'-tresses</td>
<td>S3</td>
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| Global Rank | |
|-------------| |
| G3          | |

## Location Information:

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<tr>
<td>TXGRIM</td>
<td>Grimes</td>
<td>30095-F8</td>
<td>Singleton</td>
<td>TX</td>
</tr>
</tbody>
</table>

### Directions:
Approx. 800 ft. SE of 90 degree turn in CR 176; west of H, L & P powerline. Plants found W of fenceline around pond and shallow drainage.

## Survey Information:

<table>
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<tr>
<th>First Observation</th>
<th>Survey Date</th>
<th>Last Observation</th>
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<tbody>
<tr>
<td>1985-11-06</td>
<td>1991-11-02</td>
<td>1985-11-06</td>
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<th>Eo Type</th>
<th>EO Rank</th>
<th>EO Rank Date</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>E - Verified extant (viability not assessed)</td>
<td>1985-11-06</td>
</tr>
</tbody>
</table>

### Observed Area (acres):

### Comments:

#### General Description:
The drainage was in open, improved pasture near a block of woods (oak, hickory, pine).

#### Comments:
The site represented by this record includes TMPA 1985 survey site # S37b (permanent site # 156). During the 1985 survey other *Spiranthes* species were observed in flower: 1 S. cernua (woodland form) and 11 S. cernua (peloric form).

### Protection Comments:

### Management Comments:

## Data:

### EO Data:
28 Oct-6 Nov 1985: Five *Spiranthes parksi* were observed in flower. 21 Oct-2 Nov 1991: No *S. parksi* were observed.

## Site:

TMPA GIBBONS CREEK STATION

## Managed Area:

### Managed Area Name:

### Managed Area Type:
Element Occurrence Record

Reference:

Full Citation:


Parker, Kathleen. 1997. Letter of 21 November to Jackie Poole with new Spiranthes parksii populations.

Specimen:
Element Occurrence Record

Scientific Name: Spiranthes parksii
Occurrence #: 50

Common Name: Navasota ladies'-tresses
TX Protection Status: E

Global Rank: G3
State Rank: S3

Location Information:

Watershed Code: 12070103
Watershed Description: Navasota

County Code: TXGRIM
County Name: Grimes
Mapsheet Code: 30095-F8
Mapsheet Name: Singleton
State: TX

Mapsheet Code: 30095-E8
Mapsheet Name: Roans Prairie
State: TX

Directions:
Site is located 2 miles S of Singleton, approx. 1200 ft. W of Hwy 90 and approx. 900 ft. E of HL&P powerline.

Survey Information:

First Observation: 1985-11-06
Survey Date: 1985-11-06
Last Observation: 1985-11-06
EO Rank: E - Verified extant (viability not assessed)
EO Rank Date: 1985-11-06

Observed Area (acres):

Comments:

General Description: Site described as mostly pine-hardwood woodland with a cultivated oat field in the east-central section of the site. At the south end of the site is a former bog as indicated by low relief and abundant Sphagnum moss. The S. parksii plants were found around the edges of the former bog. The area is typical S. parksii habitat except for the abundance of tall grasses, lack of drainages or eroded areas and close proximity to standing water.

Comments: During the 1985 survey other Spiranthes species were observed in flower: 80 S. cernua (woodland form) and 4 S. cernua (peloric form). In 1989 numbering of search sites was redefined to give each site since 1984 a consecutive number. The site represented by this record includes TMPA 1985 survey site # R7 (permanent site # 95).

Protection Comments:

Management Comments:

Data:

EO Data: 28 Oct-6 Nov 1985: 6 Spiranthes parksii were observed in flower.

Site:

TMPA GIBBONS CREEK STATION

Managed Area:

2/1/2012
Element Occurrence Record

Reference:

Full Citation:


Parker, Kathleen. 1997. Letter of 21 November to Jackie Poole with new Spiranthes parksi populations.

Specimen:
**Code Key for Printouts from**
Texas Parks and Wildlife Department
Texas Natural Diversity Database (TXNDD)

This information is for your assistance only, due to continuing data updates, vulnerability of private land to trespass and of species to disturbance or collection, please refer all requesters to our office to obtain the most current information available. Also, please note, identification of a species in a given area does not necessarily mean the species currently exists at the point or area indicated.

**LEGAL STATUS AND CONSERVATION RANKS**

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>LE</td>
<td>Listed Endangered</td>
</tr>
<tr>
<td>LT</td>
<td>Listed Threatened</td>
</tr>
<tr>
<td>PE</td>
<td>Proposed to be listed Endangered</td>
</tr>
<tr>
<td>PT</td>
<td>Proposed to be listed Threatened</td>
</tr>
<tr>
<td>PDL</td>
<td>Proposed to be Delisted (Note: Listing status retained while proposed)</td>
</tr>
<tr>
<td>SAE, SAT</td>
<td>Listed Endangered on basis of Similarity of Appearance, Listed Threatened on basis of Similarity of Appearance</td>
</tr>
<tr>
<td>DL</td>
<td>Delisted Endangered/Threatened</td>
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<tr>
<td>C</td>
<td>Candidate. USFWS has substantial information on biological vulnerability and threats to support proposing to list as threatened or endangered. Data are being gathered on habitat needs and/or critical habitat designations.</td>
</tr>
<tr>
<td>C*</td>
<td>C, but lacking known occurrences</td>
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<tr>
<td>C**</td>
<td>C, but lacking known occurrences, except in captivity/cultivation</td>
</tr>
<tr>
<td>XE</td>
<td>Essential Experimental Population</td>
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<td>XN</td>
<td>Non-essential Experimental Population</td>
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**TX PROTECTION** (as determined by the Texas Parks and Wildlife Department)

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<td>Listed Endangered</td>
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<td>T</td>
<td>Listed Threatened</td>
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<td>Species not state-listed</td>
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**GLOBAL RANK** (as determined by NatureServe)

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<tr>
<th>Code</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>G1</td>
<td>Critically imperiled globally, extremely rare, typically 5 or fewer viable occurrences</td>
</tr>
<tr>
<td>G2</td>
<td>Imperiled globally, very rare, typically 6 to 20 viable occurrences</td>
</tr>
<tr>
<td>G3</td>
<td>Very rare and local throughout range or found locally in restricted range, typically 21 to 100 viable occurrences</td>
</tr>
<tr>
<td>G4</td>
<td>Apparently secure globally</td>
</tr>
<tr>
<td>G5</td>
<td>Demonstrably secure globally</td>
</tr>
<tr>
<td>GH</td>
<td>Of historical occurrence through its range</td>
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<tr>
<td>GU</td>
<td>Possibly in peril range-wide, but status uncertain</td>
</tr>
<tr>
<td>G/G#</td>
<td>Ranked within a range as status uncertain</td>
</tr>
<tr>
<td>GX</td>
<td>Apparently extinct throughout range</td>
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<tr>
<td>Q</td>
<td>Rank qualifier denoting taxonomic assignment is questionable</td>
</tr>
<tr>
<td>#?</td>
<td>Rank qualifier denoting uncertain rank</td>
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<tr>
<td>C</td>
<td>In captivity or cultivation only</td>
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<tr>
<td>G/T#</td>
<td>&quot;G&quot; refers to species rank; &quot;T&quot; refers to variety or subspecies rank</td>
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**STATE (SUBNATIONAL) RANK** (as determined by the Texas Parks and Wildlife Department)

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<tr>
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<tbody>
<tr>
<td>S1</td>
<td>Critically imperiled in state, extremely rare, vulnerable to extirpation, typically 5 or fewer viable occurrences</td>
</tr>
<tr>
<td>S2</td>
<td>Imperiled in state, very rare, vulnerable to extirpation, typically 6 to 20 viable occurrences</td>
</tr>
<tr>
<td>S3</td>
<td>Rare or uncommon in state, typically 21 to 100 viable occurrences</td>
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<td>S4</td>
<td>Apparently secure in State</td>
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<td>Demonstrably secure in State</td>
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<td>S/#S#</td>
<td>Ranked within a range as status uncertain</td>
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<td>SH</td>
<td>Of historical occurrence in state and may be rediscovered</td>
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<tr>
<td>SU</td>
<td>Unrankable - due to lack of information or substantially conflicting information</td>
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<tr>
<td>SX</td>
<td>Apparently extirpated from State</td>
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<tr>
<td>SNR</td>
<td>Unranked - State status not yet assessed</td>
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<tr>
<td>SNA</td>
<td>Not applicable - species id not a suitable target for conservation activities</td>
</tr>
<tr>
<td>?</td>
<td>Rank qualifier denoting uncertain rank in State</td>
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</tbody>
</table>

Revised 1 Apr 2008
Protection of State-Listed Species
Texas Parks and Wildlife Department Guidelines

Protection of State-Listed Species

State law prohibits any take (incidental or otherwise) of state-listed species. State-listed species may only be handled by persons possessing a Scientific Collecting Permit or a Letter of Authorization issued to relocate a species.

- **Section 68.002 of the Texas Parks and Wildlife (TPW) Code** states that species of fish or wildlife indigenous to Texas are endangered if listed on the United States List of Endangered Native Fish and Wildlife or the list of fish or wildlife threatened with statewide extinction as filed by the director of Texas Park and Wildlife Department. Species listed as Endangered or Threatened by the Endangered Species Act are protected by both Federal and State Law. The State of Texas also lists and protects additional species considered to be threatened with extinction within Texas.

- **Animals - Laws and regulations pertaining to state-listed endangered or threatened animal species** are contained in Chapters 67 and 68 of the Texas Parks and Wildlife (TPW) Code and Sections 65.171 - 65.176 of Title 31 of the Texas Administrative Code (TAC). State-listed animals may be found at 31 TAC §65.175 & 176.

- **Plants - Laws and regulations pertaining to endangered or threatened plant species** are contained in Chapter 88 of the TPW Code and Sections 69.01 - 69.9 of the TAC. State-listed plants may be found at 31 TAC §69.8(a) & (b).

Prohibitions on Take of State Listed Species

Section 68.015 of the TPW Code states that no person may capture, trap, take, or kill, or attempt to capture, trap, take, or kill, endangered fish or wildlife.

Section 65.171 of the Texas Administrative Code states that except as otherwise provided in this subchapter or Parks and Wildlife Code, Chapters 67 or 68, no person may take, possess, propagate, transport, export, sell or offer for sale, or ship any species of fish or wildlife listed by the department as endangered or threatened.

"Take" is defined in **Section 1.101(5) of the Texas Parks and Wildlife Code** as:

"Take," except as otherwise provided by this code, means collect, hook, hunt, net, shoot, or snare, by any means or device, and includes an attempt to take or to pursue in order to take.

Penalties

The penalties for take of state-listed species (TPW Code, Chapter 67 or 68) are:

- **1ST Offense = Class C Misdemeanor:**
  $25-$500 fine

- **One or more prior convictions = Class B Misdemeanor:**
  $200-$2,000 fine and/or up to 180 days in jail.

- **Two or more prior convictions = Class A Misdemeanor:**
  $500-$4,000 fine and/or up to 1 year in jail.

Restitution values apply and vary by species. Specific values and a list of species may be obtained from the TPWD Wildlife Habitat Assessment Program.
December 27, 2011

Regulatory Branch, CESWG-PE-R
U.S. Army Corps of Engineers Galveston District
2000 Fort Point Road
P.O. Box 1229
Galveston, TX 77553-1229

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

To Whom It May Concern:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

Brazos Electric Power Cooperative requests that your office review the proposed project for possible impacts to 100-year floodplains, wetlands, and other important natural resources that occur in the project area. Please provide any recommendations you may have to mitigate or avoid these impacts.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmcclain.com.

Sincerely,

Larry Cox
Principal
PLEASE NOTE: THIS IS NOT A PERMIT

Evaluation Section

SUBJECT: Acknowledgement – Department of the Army Permit Application – Proposed Brazos Electric Power Cooperative, Inc.'s Sandy Transmission Line and Substation Project

Larry Cox  
Principal  
Cox j McLain Environmental Consulting  
6010 Balcones Drive, Suite 210  
Austin, Texas 78731

Mr. Cox:

This is to acknowledge receipt of your December 27, 2011 request for Department of the Army Jurisdictional Determination of the site proposed for the Brazos Electric Power Cooperative, Inc.'s Sandy Transmission Line and Substation Project. The project site is located in Grimes, Walker, and Montgomery Counties, Texas. Please note the items listed below.

Date Request Received: January 3, 2012
Applicant (if other than Requestor): Brazos Electric Power Cooperative, Inc.
Application Number Assigned: SWG-2012-00019
Project Manager Assigned: Ms. Janet Thomas-Botello
Telephone Number of Project Manager: 409-766-3095
Mailing Address: Janet Thomas-Botello  
CESWG-PE-RS  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229

Please reference the above file number in all future correspondence with our office related to this request. You may contact the project manager at the address or telephone number listed above. As always, we are here to assist you in any manner we can regarding this request.

Sincerely,

Lavonne L. Collins

Lavonne L. Collins  
Legal Instruments Examiner

PLEASE NOTE: THIS IS NOT A PERMIT
DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

January 17, 2012

Evaluation Section

SUBJECT: Permit Application No. SWG-2012-00019

Cox/McLain Environmental Consulting
ATTN: Mr. Larry Cox
6010 Balcones Drive
Suite 210
Austin, Texas 78731

Dear Mr. Cox:

This is in regard to your request, received on January 3, 2010, for a review of possible impacts to the 100-year floodplain, wetlands and other important natural resources which could result from the construction of a new 15-mile-long, 70-foot-wide electrical transmission line corridor and a five acre substation. You also asked for recommendations regarding resource avoidance or mitigation of impacts. The project review area crosses Grimes, Walker and Montgomery Counties, Texas.

The Corps of Engineers has jurisdiction over work, structures, and/or fill material placed into navigable waters of the United States (U.S.) pursuant to Section 10 of the Rivers and Harbors Act of 1899. The Corps of Engineers also has jurisdiction over the discharge of dredged or fill material into waters of the U.S., including wetlands, pursuant to Section 404 of the Clean Water Act.

I reviewed your project information and have determined that the project area appears to contain Waters of the U.S. (creeks, streams, wetlands) regulated under Section 404 of the Clean Water Act. If the project involves the discharge of fill material into these areas (e.g. trenching a utility line, placing fill material for footings or substation foundations), or mechanical land clearing of forested wetlands, a Department of the Army (DA) permit could be required for the work. If resources are avoided and no fill material is discharged into a water of the U.S., a DA permit would not be required. This may be accomplished by routing the line and permanently maintained right-of-way around water areas, drilling the line underneath water areas, or constructing overhead utility crossings with poles and footings placed on uplands. The substation would also need to be located solely on uplands. More precise permit requirements can be determined once a defined work corridor is selected, work methodologies are known and permanent habitat impacts are identified. Mr. Sam Watson may be contacted at (409) 766-3946 for information on mitigation banks that may service the final project area, if mitigation is pursued.


Please reference file number SWG-2012-00019 in future correspondence pertaining to this subject. If you have any questions concerning this determination, please contact me at the letterhead address or by telephone at 409-766-3095.

Sincerely,

[Signature]

Janet Thomas Botello
Leader, North Evaluation Unit
December 27, 2011

Stephen Brooks
CESWF-PER-R
U.S. Army Corps of Engineers Fort Worth District
819 Taylor Street RM 3A37
PO Box 17300
Fort Worth, TX 76102-0300

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Brooks:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

Brazos Electric Power Cooperative requests that your office review the proposed project for possible impacts to 100-year floodplains, wetlands, and other important natural resources that occur in the project area. Please provide any recommendations you may have to mitigate or avoid these impacts.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
Planning, Environmental, and Regulatory Division  
Regulatory Branch

SUBJECT: Project Number SWF-2012-00012, BEPC's Sandy Transmission Line and Substation Project

Larry Cox  
Cox-McLain Environmental Consulting  
6010 Balcones Drive  
Suite 210  
Austin, TX 78731

Dear Mr. Cox:

Thank you for your letter received December 29, 2011 concerning a proposal by Brazos Electric Power Cooperative, Inc (BEPC) to construct a five acre substation and a new 138Kv transmission line with a 70 feet wide right-of-way and length of approximately 15 miles located in Grimes, Walker, and Montgomery Counties. This project has been assigned Project Number SWF-2012-00012. Please include this number in all future correspondence concerning this project.

Ms. Elisha Bradshaw has been assigned as the regulatory project manager for your request and will be evaluating it as expeditiously as possible.


If you have any questions about the evaluation of your submittal or would like to request a copy of one of the documents referenced above, please contact Ms. Elisha Bradshaw at the address above or telephone (817) 886-1738 and refer to your assigned project number. Please note that it is unlawful to start work without a Department of the Army permit if one is required.

Please help the Regulatory Program improve its service by completing the survey on the following website: http://per2.nwp.usace.army.mil/survey.html.

Stephen L Brooks  
Chief, Regulatory Branch
Planning, Environmental, and Regulatory Division
Regulatory Branch

SUBJECT: Project Number SWF-2012-00012, BEPC's Sandy Transmission Line and Substation Project

Larry Cox
Cox-McLain Environmental Consulting
6010 Balcones Drive
Suite 210
Austin, Texas 78731

Dear Mr. Cox:

Thank you for your letter received December 29, 2012, concerning a proposal by Brazos Electric Power Cooperative, Inc. to construct a transmission line and substations in Grimes, Walker, and Montgomery Counties, Texas. This project has been assigned Project Number SWF-2012-00012. Please include this number in all future correspondence concerning this project. Failure to reference the project number may result in a delay.

We have reviewed this project in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Under Section 404, the U.S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into waters of the United States, including wetlands. Our responsibility under Section 10 is to regulate any work in, or affecting, navigable waters of the United States. Any such discharge or work requires Department of the Army authorization in the form of a permit. For more information on the USACE Regulatory Program, please reference the Fort Worth District Regulatory Branch homepage at www.sfw.usace.army.mil/regulatory.

We are unable to determine from the information that you provided in your letter whether Department of the Army authorization will be required, and if so, in what form. The proposed construction activities may be authorized by a general permit, such as Nationwide Permit 12 for Utility Line Activities, Nationwide Permit 18 for Minor Discharges, or Regional General Permit 2 (CESWF-05-RGP-2) for Utility Lines and Intake and Outfall Structures. We have enclosed a copy of these general permits for your reference as well as the nationwide permit 12 application form, which can also be accessed electronically at http://www.sfw.usace.army.mil/pubdata/environ/regulatory/permitting/applicationforms/. If the
project does not meet the terms and conditions of a general permit, an individual permit would be required for authorization.

So that we may continue our evaluation of your proposed project, we request that you provide us with the following information:

1. A detailed project description.

2. A map (or maps) showing the entire route of the project.

3. The proposed route of the project on 8 ½ by 11-inch copies of 7.5-minute United States Geological Survey (USGS) quadrangle maps, national wetland inventory maps, published soil survey maps, scaled aerial photographs, and/or other suitable maps. Identify all base maps, (e.g. “Fort Worth, Texas” 7.5-minute USGS quadrangle, Natural Resources Conservation Service Tarrant County Soil Survey sheet 10). Clearly mark (such as by circling) and number the location of each proposed utility line crossing of a water of the United States and any appurtenant structure(s) in waters of the United States on the map. Waters of the United States include streams and rivers and most lakes, ponds, mudflats, sandflats, wetlands, sloughs, wet meadows, abandoned sand and gravel mining and construction pits, and similar areas.

4. For each potential utility line crossing or appurtenant structure in a water of the United States, include the following site specific information when applicable:

   a. 7.5-minute USGS quadrangle map name, universal transverse mercator (UTM) coordinates, county or parish, waterway name;

   b. a brief characterization of the crossing area (stream, forested wetland, non-forested wetland, etc.) including the National Wetland Inventory classification and soil series;

   c. distance between ordinary high water marks;

   d. proposed method of crossing (trench, bore, span, bridge, culvert etc.);

   e. length of proposed crossing;

   f. width of temporary and permanent rights-of-way;

   g. type and amount of dredged or fill material proposed to be discharged;

   h. acreage of proposed temporary and permanent adverse impacts to waters of the United States, including wetlands; and

   i. a typical cross-section.
Please refer to the enclosed guidance for Department of the Army submittals for additional details about what you should submit for this and future linear projects. Additional information, including more detailed jurisdictional determination data, may be needed to complete our evaluation of your project in some cases. We encourage you to consult with a qualified specialist (biologist, ecologist or other specialist qualified in preliminary jurisdictional determinations) who is familiar with the 1987 Corps of Engineers Wetlands Delineation Manual and the USACE Regulatory Program (33 CFR Parts 320-331).

Several endangered species, including Navasota ladies' tresses (Spiranthes parishii), whooping crane (Grus americana), and red-cockaded woodpecker (Picoides borealis), are known to occur in Grimes, Walker, and Montgomery Counties, Texas. Please consider the potential effects of your proposed action on endangered species in your planning efforts. For additional information about endangered and threatened species, please contact the U. S. Fish and Wildlife Service.

Please provide additional information on historic properties (prehistoric and historic sites), which may be affected by the proposed work.

We encourage you to avoid and minimize adverse impacts to streams, wetlands, and other waters of the United States in planning this project. Please forward your response to us as soon as possible so that we may continue our evaluation of your request. Please note that it is unlawful to start work without a Department of the Army permit when one is required.


If you have any questions concerning our regulatory program, please contact Ms. Elisha Bradshaw at the address above or telephone (817) 886 – 1738 or by email at Elisha.A.Bradshaw@usace.army.mil.

Sincerely,

Elisha Bradshaw

[Signature]

Stephen L Brooks
Chief, Regulatory Branch

Enclosures
Utility Line Activities. Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States, provided the activity does not result in the loss of greater than 3\% acre of waters of the United States.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the United States, provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefied, 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 radio and television communication. The term "utility line" does not include activities that drain a water of the United States, such as drainage tile or French drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the United States for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the United States (e.g., backfilling with extensive gravel layers, creating a French drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the United States, provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the United States, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the United States, provided the total discharge from a single and complete project does not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the United States and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravelp roads). Access roads constructed above pre-construction contours and elevations in waters of the United States must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility line activity in or affecting navigable waters of the United States even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if any of the following criteria are met:

1. The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way;
2. a section 10 permit is required;
(3) the utility line in waters of the United States, excluding overhead lines, exceeds 500 feet;
(4) the utility line is placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to a
stream bed that is within that jurisdictional area;
(5) discharges that result in the loss of greater than 1/10-acre of waters of the United States;
(6) permanent access roads are constructed above grade in waters of the United States for a distance of more
than 500 feet; or
(7) permanent access roads are constructed in waters of the United States with impervious materials. (See
general condition 27.) (Sections 10 and 404)

Note 1: Where the proposed utility line is constructed or installed in navigable waters of the United States (i.e.,
section 10 waters), copies of the pre-construction notification and NWP verification will be sent by the Corps to
the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the
utility line to protect navigation.

Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the
terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed
upon completion of the work, accordance with the requirements for temporary fills.

Note 3: Pipes or pipelines used to transport gaseous, liquid, liquefied, or slurry substances over navigable
waters of the United States are considered to be bridges, not utility lines, and may require a permit from the U.S.
Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged
or fill material into waters of the United States associated with such pipelines will require a section 404 permit
(see NWP 15)

NATIONWIDE PERMIT GENERAL CONDITIONS

General Conditions: The following general conditions must be followed in order for any authorization by a NWP to
be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must
be installed and maintained at the permittee’s expense on authorized facilities in navigable waters of the United
States.
(c) The permittee understands and agrees that, if future operations by the United States require the removal,
relocation, or other alteration, of the structure 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 United
States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those
species of aquatic life indigenous to the waterbody, including those species that normally migrate through the
area, unless the activity’s primary purpose is to impound water. Culverts placed in streams must be installed to
maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum
extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream
smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for
migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is
directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. 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).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the
activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. **Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. **Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. **Endangered Species.** (a) No activity is authorized under any NWP which is likely to 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 destroy or adversely modify the critical habitat of such species. No activity is species critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

   (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

   (c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federal-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be
affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their worldwide Web pages at http://www.fws.gov/ and http://www.nmfs.noaa.gov/lisheen/index.html respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect 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) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing, on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field surveys. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and has notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110(k) of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (AICP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the AICP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.
(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency
concurrency must be obtained, or a presumption of concurrency must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

23. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing, over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 13/acre.

25. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with the nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide 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 nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit, and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."


(Transferee)


(Date)


26. Compliance Certification. Each permittee who received the NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;

(b) A statement that any required mitigation was completed in accordance with the permit conditions; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

27. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) Forty-five calendar days have passed from the district engineer’s receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is “no effect” on listed species or “no potential to cause effects” on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin
the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project’s purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);

(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity’s compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project’s adverse environmental effects to a minimal level.

(2) For all NWP 43 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies’ concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
(3) In cases where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitats conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer’s Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

(1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
(2) that the project is authorized under the NWP subject to the applicant’s submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
(3) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.
Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR Part 60).

Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructing even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP. It is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open-water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar
document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a former or degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete project: The term "single and complete project" is defined at 33 CFR 328.3(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream's course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, wharf, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal
waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They 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.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent—meaning bordering, contiguous, or neighboring—to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

ADDITIONAL INFORMATION

This nationwide permit is effective March 19, 2007, and expires on March 18, 2012.

Information about the U.S. Army Corps of Engineers regulatory program, including nationwide permits, may also be accessed at http://www.swf.usace.army.mil/pubdata/environregulatory/index.asp or http://www.usace.army.mil/docs/ceow/reg
NATIONWIDE PERMIT 18
Minor Discharges
Effective Date: March 19, 2007
(NWP Final Notice, 72 FR 11184, para. 18)

Minor Discharges. Minor discharges of dredged or fill material into all waters of the United States, provided the activity meets all of the following criteria:

(a) The quantity of discharged material and the volume of area excavated do not exceed 25 cubic yards below the plane of the ordinary high water mark or the high tide line;
(b) The discharge will not cause the loss of more than 1/10 acre of waters of the United States; and
(c) The discharge is not placed for the purpose of a stream diversion.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if:

1. The discharge or the volume of area excavated exceeds 10 cubic yards below the plane of the ordinary high water mark or the high tide line, or
2. the discharge is in a special aquatic site, including wetlands. (See general condition 27.) (Sections 10 and 404)

NATIONWIDE PERMIT GENERAL CONDITIONS

General Conditions: The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.
   (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
   (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure 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 United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48.

6. 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).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. Endangered Species. (a) No activity is authorized under any NWP which is likely to 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 destroy or adversely modify the critical habitat of such species. No activity is species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.
(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their worldwide Web pages at http://www.fws.gov and http://www.nmfs.noaa.gov/fisheries.html respectively.

18. Historic Properties. (a) In cases where the district engineer determines that the activity may affect 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) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-Federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(q)). The district engineer shall make a reasonable good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA Section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470n-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (AHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impact to the permitted activity on historic properties.

19. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 45, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33,
34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NVPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require pre-construction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NVPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NVPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

22. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

24. **Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing, over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

25. **Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with the nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide 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 nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit, and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

26. **Compliance Certification.** Each permittee who received the NWP verification from the Corps must submit a signed certification regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;

(b) A statement that any required mitigation was completed in accordance with the permit conditions; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

27. **Pre-Construction Notification.** (a) **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt, and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 60 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to
proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;
(2) Location of the proposed project;
(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision);
(4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
(5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and
(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
(2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring pre-construction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
(4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.

(5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) District Engineer's Decision: In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

1. That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
2. That the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
3. That the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration, establishment (creation), enhancement, or preservation of aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.
Discharge: The term "discharge" means any discharge of dredged or fill material.
Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.
Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.
Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.
Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR Part 50).
Independent utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.
Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.
Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.
Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).
Open water: For purposes of the NWPs, an open-water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.
Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).
Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.
Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.
Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.
**Preservation:** The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

**Re-establishment:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area.

**Rehabilitation:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

**Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Re-establishment and rehabilitation.

**Riffle and pool complex:** Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a course substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a swimming flow, a smooth surface, and a finer substrate characterize pools.

**Riparian areas:** Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects waterbodies with their adjacent uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 20.)

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

**Single and complete project:** The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Stormwater management:** Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

**Stormwater management facilities:** Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

**Stream bed:** The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

**Stream channelization:** The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal disruption of normal stream processes. A channelized stream remains a water of the United States.

**Structure:** An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

**Tidal wetland:** A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pull of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).
Vegetated shallows: Vegetated shalows are special aquatic sites under the 404(b)(1) Guidelines. They 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.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States that, during a year with normal patterns of precipitation, has water flowing or standing above ground to the extent that an ordinary high water mark (OHWM) or other indicators of jurisdiction can be determined, as well as any wetland area (see 33 CFR 328.3(b)). If a jurisdictional wetland is adjacent—meaning bordering, contiguous, or neighboring—to a jurisdictional waterbody displaying an OHWM or other indicators of jurisdiction, that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

ADDITIONAL INFORMATION

This nationwide permit is effective March 19, 2007, and expires on March 18, 2012.

Interested parties are hereby notified that, in accordance with 33 CFR 322.2(f), 323.2(h), and 325.2(c)(2) published in the Federal Register November 13, 1986, the Fort Worth, Albuquerque, and Tulsa districts of the U.S. Army Corps of Engineers (USACE) are issuing this regional general permit (RGP) to authorize the work described herein pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

The purpose of this RGP is to expedite authorization of recurring work that would have minimal adverse impact on the aquatic environment. This RGP contains provisions intended to protect the environment, including natural and cultural resources. Work that does not comply with these provisions may require an individual permit. However, compliance with the conditions contained in this RGP does not guarantee authorization of the work under this RGP. Work or structures that would have unacceptable impacts on the public interest are not authorized. Activities requiring Department of the Army authorization that are not specifically covered by this permit are prohibited unless authorized by a separate permit.

This RGP has been designated CESWF-05-RGP-2 in the Fort Worth District, TXG300011 in the Tulsa District, and 20050060 in the Albuquerque District, and would replace RGP SWF-99-RGP-2 in the Fort Worth District, TXG300011 in the Tulsa District, and TX-OYT-0491 in the Albuquerque District.

**SCOPE OF WORK**

Work authorized by this RGP is limited to the discharge of dredged or fill material into waters of the United States (U.S.), including wetlands, and the placement of structures and performance of work in, or affecting, navigable waters of the U.S., associated with the construction and maintenance, including the placement of backfill and bedding, and other dredged and fill material associated with utility lines and intake and outfall structures, provided there is no more than minimal adverse impact to the aquatic environment associated with the work, including any change in pre-construction contours or drainage patterns within affected waters of the U.S. The area of waters of the U.S. that is disturbed must be limited to the minimum amount necessary for construction of the utility line. Appropriate and practicable compensatory mitigation shall be required for unavoidable adverse impacts to waters of the U.S. This RGP does not authorize activities that would have more than minimal adverse impacts on the aquatic environment or cause more than minimal reduction in the reach of waters of the U.S.

A “utility line” is defined as any pipe or pipeline for the transportation of a gaseous, liquid, liquefiable, 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 radio and television communication. The term
"utility line" does not include activities or structures that drain a water of the U.S., such as drainage tile, however, it does apply to pipes conveying drainage from another area.

Intake and outfall structures are not required to be directly related to a utility line to be authorized by this permit. These structures shall be constructed so as to prevent erosion of the bank below and to the sides of the structure. The construction of temporary coffer dams, equipment ramps, roads, and similar structures necessary for the construction of intake and outfall structures are also authorized by this permit.

This RGP authorizes mechanized land clearing necessary for the installation of utility lines, provided the cleared area is kept to the minimum necessary and there is no more than minimal adverse impact associated with the activity.

Material resulting from trench excavation may be temporarily sidecast into waters of the U.S. for up to three months provided that the material is not placed in a manner that will allow it to be dispersed by currents or other forces. The USACE may extend the period of sidecasting to a period not to exceed 180 days, where appropriate. In wetlands, the top 6 to 12 inches of a trench should generally be backfilled with topsoil from the trench.

Materials to be placed into waters of the U.S. are restricted to clean native soils obtained at the site and concrete, sand, gravel, rock, and other coarse aggregate. All material used shall be of suitable quality and free of toxic pollutants in toxic quantities. Immediately upon completion of the construction of the utility line, all excess material and temporary structures must be removed to upland areas and any exposed slopes and stream banks must be stabilized.

The activities listed above are authorized by this RGP provided they meet all of the following criteria:

1. Adverse impacts to waters of the U.S., including wetlands, shall be avoided and minimized to the extent practicable through the use of alternatives that have less adverse impact on the aquatic environment. Projects shall be designed to pass low, normal, and expected high flows, to not interfere with the migration of aquatic organisms, avoid the creation of impoundments, and maintain the preconstruction conditions to the extent practicable.

2. All fills and structures above the existing ground elevation in waters of the U.S. shall be constructed and placed so as to minimize adverse impacts to local hydrology. Projects shall not promote the drainage of waters of the U.S. or cause unnecessary impoundment of water.

3. All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during and after construction until all exposed soil is permanently stabilized. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be implemented. All damage resulting from erosion and/or sedimentation shall be repaired.

4. The water velocity at any intake structure screen shall be no greater than 0.5 feet per second and the mesh size of the intake structure screen shall be no greater than 0.25 inch.

5. Compensatory mitigation shall be provided for unavoidable adverse impacts to waters of the U.S., including wetlands, when appropriate and practicable.
6. **Preconstruction Notification (PCN):** Prior to construction, a prospective permittee must notify the USACE of the proposed work in accordance with the requirements of the "Preconstruction Notifications" section below (see pages 6-10).

7. Permittees shall submit a written compliance report to the USACE within 120 days after completion of all work that includes the following:

   a. a statement addressing whether the authorized work and mitigation required to date have been implemented in accordance with the USACE authorization, including all general and special conditions;

   b. a summary of all construction and mitigation activities associated with the project that have occurred, including documentation of the completion of all work and compliance with all terms and conditions of the permit;

   c. a comparison of the pre- and post-construction conditions of the project area;

   d. a detailed description of all impacts that have occurred to waters of the U.S.;

   e. a map showing the final configuration of restored, enhanced, created, and preserved waters of the U.S., including wetlands;

   f. a presentation of the species of plants, number and acreage of vegetation planted, final topographic elevations of the project, and a map describing the location of the plantings;

   g. a discussion about whether disturbed areas, such as stream banks, and temporary impact areas are revegetating adequately and not suffering erosion damage; and

   h. photographs and maps as appropriate to illustrate the information presented.

The prospective permittee shall not begin any activity until notified in writing by the USACE that the activity is authorized under this RGP with any special conditions imposed by the USACE. The USACE will respond as promptly as practicable to all PCNs.

**CONDITIONS OF THE RGP**

In addition to the limitations in the scope of work, work authorized by this RGP is subject to the general conditions listed in Appendix A. References in the general conditions to "completion of construction" refer to completion of work within the permit area for the activity. Also, for projects requiring water quality certification, projects are subject to the conditions of the water quality certification that applies.

**LOCATION OF WORK**

The provisions of this RGP will be applicable to all waters of the U.S., including all navigable waters of the U.S., in the Fort Worth, Albuquerque, and Tulsa districts of the USACE, within the states of Texas and Louisiana (see Appendices B and C), with the following exception:

From the Precinct Line Road crossing of the West Fork Trinity River in Tarrant County, Texas, to the State Highway 34 crossing of the Trinity River in Kaufman County, Texas, dredged material cannot be used for cofferdams, equipment ramps, or similar structures. Dredged material may only be used for backfill in those projects where the trench has been completely de-watered. In such cases, dredged material can only be used to within two feet of the top of the trench and must be covered by two feet of
clean fill material. Material excavated from these sections of the river must be properly disposed of at an upland site and covered to prevent re-entry into the river or contamination of surface or ground water. The location of all disposal sites must be included in the application for authorization.

The Fort Worth District includes the Sabine River watershed in Sabine, De Soto, and Caddo Parishes in the State of Louisiana.

**WATER QUALITY CERTIFICATION**

The Texas Commission on Environmental Quality (TCEQ) has certified pursuant to Section 401 of the CWA and Title 30, Texas Administrative Code, Chapter 279, for the activities for which it is responsible, that activities conducted under this RGP should not result in a violation of established Texas Water Quality Standards provided reasonable best management practices are included and followed (See General Condition 32 in Appendix A and Appendix E).

The Railroad Commission of Texas (RRC) has granted certification pursuant to Section 401 of the CWA, for the activities associated with the exploration, development, and production, including pipeline transportation, of oil, gas, or geothermal resources that may result in a discharge to waters of the United States, that activities conducted under this RGP comply with applicable water quality laws conditional on the addition of language to the permit that 1) activities that are not water dependent are presumed to have a practicable alternative and 2) compensatory mitigation is not considered an alternative. The specified language has hereby been added relative to RRC water quality certification (see special condition 33 in Appendix A and Appendix E).

The Louisiana Department of Environmental Quality (LDEQ) has stated that the LDEQ has no objections for the renewal of this RGP under Water Quality Certification JP 050121-05/A# 101986/CER20050001 (see Appendix E).

**AUTHORIZATION FROM OTHER AGENCIES**

This RGP does not obviates the need to obtain other federal, state, or local permits, approvals, or authorizations required by law. The permittee is responsible for obtaining any additional federal, state, or local permits or approvals that may be required, including, but not limited to:

1. When streambed materials such as sand, shell, gravel and marl would be disturbed or removed from state-owned waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department (TPWD), 4200 Smith School Road, Austin, Texas 78744. All activities occurring on lands owned or managed by the TPWD require a signed agreement from that agency prior to commencing operations.

2. All activities in Texas located on lands under the jurisdiction of the Texas General Land Office (GLO), 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds, state-owned uplands, or coastal state-owned lands in Texas may require the issuance of a lease or easement from the GLO.

3. Any work that would be conducted on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that agency.

4. Projects involving government property at USACE reservoirs require submission of detailed design information to the reservoir manager and USACE approval for the proposed activity to occur on government property, including a real estate consent to easement.
5. Activities within a 100-year floodplain may require a floodplain development permit from the local floodplain administrator or, in Texas, the TCEQ Flood Management Unit, (512) 239-4771 (see Appendix A, general condition 31). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.

6. In accordance with the federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure associated with activities other than oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation under the terms of the Texas Pollutant Discharge Elimination System (TPDES) program through the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087. In accordance with the federal Clean Water Act and Texas Statute, a point source discharge of pollutants from an outfall structure associated with oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation by the U. S. Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas, Texas 75202, and the Railroad Commission of Texas, Oil and Gas Division, 1701 North Congress Avenue, P. O. Box 12967, Austin, Texas 78711-2967, respectively.

7. Activities such as clearing, grading, and excavation that would disturb one or more acres of land may require a National Pollutant Discharge Elimination System (NPDES) storm water management permit from the U.S. Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas Texas 75202 or a TPDES storm water management permit from the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.

8. The use of scrap tires for bank stabilization and erosion control requires notification of the TCEQ Waste Tire Recycling Program, P. O. Box 13087, Austin, Texas 78711-3087.

9. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Texas Natural Resource Code Annotated §91.101, may require authorization from the Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, the Federal Energy Regulatory Commission, 3125 Presidential Parkway, Suite 300, Atlanta, Georgia 30340, and/or the Texas General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495.

10. The construction, operation, maintenance, or connection of facilities at the borders of the U.S. are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Activities that would require such authorization and would affect an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 North Mesa Street, El Paso, Texas 79902.

11. Activities outside the USACE permit area that may affect a federally-listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service (FWS) to prevent a violation of the Endangered Species Act under Section 9. For further information, contact the US Fish and Wildlife Service in Arlington: Stadium Centre Building, 711 Stadium Drive East, Suite 252, Arlington, Texas 76011; (817) 277-1100, http://www.fws.gov/southwest/es/arlington/texas; Austin: Compass Bank Building, 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512) 490-0057, http://www.fws.gov/southwest/es/austin/texas; Corpus Christi: TAMU-CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 994-9005, http://www.fws.gov/southwest/es/CorpusChristi/Texas; Clear Lake: 17629 El Camino Real, Suite 211,
12. Activities may affect state-listed rare, threatened, or endangered species. For a rare, threatened, and endangered species review in the State of Texas, submit projects to: Wildlife Habitat Assessment, Texas Parks and Wildlife Department, 3000 South IH 35, Suite 100, Austin, Texas 78704.

13. Activities in the recharge zone of the Edwards Aquifer require and activities in the contributing zone of the Edwards Aquifer that affect more than 5 acres of land under Edwards Aquifer rules a Water Pollution Abatement Plan. For further information contact the Edwards Aquifer Authority, 1615 North St. Mary’s Street, San Antonio, Texas 78215.

PRECONSTRUCTION NOTIFICATIONS

Preconstruction notifications (PCNs) requesting verification from the USACE of authorization under this RGP must be in writing and include a description of the project, proposed construction schedule, and the name, address and telephone number of a point of contact who can be reached during normal business hours. The information may be assembled and submitted in a format convenient to the applicant. All pages, including maps, drawings, figures, sheets, etc., must be on 8 ½ by 11-inch paper or fold easily to 8 ½ x 11-inch dimensions. The detail of the information should be commensurate with the size and environmental impact of the project. The description of the project must include at least the following information:

1. The purpose of, and need for, the project.

2. A delineation, determination, and characterization of wetlands and other waters of the U.S. in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment. Delineations of wetlands must be conducted using the "Corps of Engineers Wetland Delineation Manual", USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at (http://www.swf.usace.army.mil/pubdata/environmental/vegetation/wlman87.pdf)), including all supplemental guidance (currently includes guidance dated October 7, 1991, and March 6, 1992). The supplemental guidance is included in the on-line version and may also be obtained from your USACE district office. In addition, include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.

3. A vicinity map, or maps, on copies of 7.5-minute U. S. Geological Survey (USGS) quadrangle maps, county maps, scaled aerial photographs, or other suitable maps, clearly showing the location of all temporary and permanent elements of the project, including the entire route of the project for utility lines and any associated borrow pit(s), disposal site(s), staging area(s), etc. This map, or maps, or an additional map, or maps, must show the project area in relation to nearby highways and other roads, and other pertinent features. A ground survey is not required to obtain this information. Identify all base maps, e.g., Fort Worth, Texas 7.5-minute USGS quadrangle, etc. Clearly identify and number the location of each proposed utility line crossing of a water of the U.S. and any appurtenant structure(s) in waters of the U.S.

4. Plan, profile, and cross-section views of all work (fills, excavations, structures, etc.), both permanent and temporary, in or adjacent to, waters of the U.S., including wetlands, and a description of the proposed activities and structures, such as the dimensions and/or locations of roads (both temporary and permanent), coffer dams, equipment ramps, borrow pits, disposal areas, staging areas, haul roads, and other project related areas within the USACE permit area(s). The permit area(s) includes all waters of the
U.S. affected by activities associated with the project, as well as any additional area of non-waters of the U.S. in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the U.S. The USACE permit area(s) includes associated borrow pits, disposal areas, staging areas, etc. in many cases. For each crossing or activity, such as of a utility line, in a water of the U.S. include the following site-specific information when applicable:

a. a brief characterization of the crossing area including type (stream, forested wetland, non-forested wetland, etc.), function, value;

b. distance between ordinary high water marks;

c. length, width, and area of waters of the U.S. affected (temporary and permanent);

d. width of temporary and permanent rights-of-way;

e. proposed method of crossing (bore, trench, etc.)

f. source, type, and volumes of dredged and/or fill material to be discharged;

5. A written discussion of the alternatives considered and the rationale for selecting the proposed alternative as the least environmentally damaging practicable alternative. Practicable alternatives that do not involve a discharge into a special aquatic site, such as wetlands, are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. The application must also include documentation that the amount of area impacted is the minimum necessary to accomplish the project.

6. An assessment of the adverse and beneficial effects, both permanent and temporary, of the proposed work and documentation that the work would result in no more than a minimal adverse impact on the aquatic environment.

7. Documentation that the amount of area impacted is the minimum necessary to accomplish the project and, in cases where the activity would result in a change to pre-construction contours and/or drainage patterns, a description of the anticipated impacts of the changes, the reason(s) that the changes are necessary, and documentation that the changes would not result in more than minimal adverse impact on the aquatic environment.

8. A mitigation plan presenting appropriate and practicable measures planned: a) to avoid and minimize adverse impacts to the aquatic environment, particularly associated with temporary elements of the proposed project, and b) to compensate for the remaining unavoidable adverse impacts to the aquatic environment. If compensatory mitigation for unavoidable adverse impacts to the aquatic environment is not proposed, the application must include documentation that the proposed work would have minimal adverse impact on the aquatic environment without compensatory mitigation, why compensatory mitigation would be inappropriate and/or impracticable, and that compensatory mitigation should not be required. The mitigation plan must include a description of proposed appropriate and practicable actions that would restore, enhance, protect and/or replace the functions and values of the aquatic environment unavoidably lost in the permit area because of the proposed work. See Appendix D for more information.

9. An assessment documenting whether any species listed as endangered or threatened under the Endangered Species Act might be affected by, or found in the vicinity of, the USACE permit area(s) for the proposed project. Coordination with the FWS concerning the potential impact of the entire project on
endangered and threatened species is encouraged. See contact information, including website addresses, for FWS offices in “AUTHORIZATION FROM OTHER AGENCIES” section above.

10. A discussion documenting whether any cultural resources, particularly those historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), would be affected by, or are in the vicinity of, the USACE permit area(s) for the proposed project.

11. The applicant should include any other relevant information, including information on hydrology and hydraulics.

Early coordination with the USACE, well before a final PCN is submitted, is beneficial in many cases.

Address PCNs and inquiries concerning proposed activities to the appropriate district office (see Appendix B for boundaries of district offices):


EVALUATION AND VERIFICATION PROCEDURES

For all discharges within the habitat types or areas listed below, the USACE will coordinate with the resource agencies as specified in the Nationwide Permit (NWP) general condition on notification (currently General Condition 13(e), Federal Register, Vol. 67, No. 10, Tuesday, January 15, 2002, Vol. 67, No. 30, Wednesday, February 13, 2002, and Vol. 67, No. 37, Monday, February 25, 2002). The habitat types and areas are:

1. wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.);

2. baldcypress-tupelo swamps: wetlands comprised predominantly of baldcypress trees (Taxodium distichum) and water tupelo trees (Nyssa aquatica), that are occasionally or regularly flooded by fresh water. Common associates include red maple (Acer rubrum), swamp privet (Forestiera acuminata), green ash (Fraxinus pennsylvanica) and water elm (Ulmus americana). Associated herbaceous species include lizard's tail (Saururus cernuus), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis) and smartweed (Polygonum spp.). (Eyre, F. H. Forest Cover Types of the U.S. and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Washington, D.C. 20014. Library of Congress Catalog Card No. 80-54185);

3. the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention:
4. the Comal River, the San Marcos River, the Pecos River, and Lake Casa Blanca; and

5. critical habitat for the Concho water snake (*Nerodia hateri paucimaculata*), including areas of the Concho and Colorado Rivers and Ivie (Stacy) Reservoir; Houston toad (*Bufo houstonensis*); Arkansas River shiner (*Notropis girardi*); Devils River minnow (*Dionda diabolis*) – the Devils River and San Felipe Creek Watersheds in Val Verde County, Texas; Leon Springs pupfish (*Cyprinodon bovines*) – Leon Creek from the Diamond Y Spring to a point one mile northeast of the Texas Highway 18 crossing approximately 10 miles north of Fort Stockton, in Pecos County. (See also Appendix A, General Condition 15).

Construction may commence only upon written notification by the District Engineer, or his designee, that the project meets the terms and conditions of the RGP. In all cases, the USACE will notify the permit applicant whether the proposed project meets or does not meet the terms and conditions of this RGP. The USACE will respond as promptly as practicable to all PCNs.

It is the permit applicant's responsibility to ensure that all authorized structures and activities continue to meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this RGP may be considered for authorization by individual permit.

This RGP shall become effective on the date of the signature of the District Engineers, or their authorized representative(s), and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Verifications by the USACE that an activity is authorized by this RGP are valid until the expiration date of this RGP unless this RGP is modified, revoked, or extended before that date. For activities that have been verified by the USACE as authorized under this RGP, and have commenced, i.e. are under construction, or are under contract to commence, by the verification expiration date, will remain authorized provided the activity is completed within twelve months of the date of expiration, modification, or revocation of the RGP, or by another date determined by the USACE.
for the specific case, whichever is later, unless discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:
FOR THE DISTRICT ENGINEERS:

Wayne A. Lea
28 November 2005

John R. Minahan
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Miroslav P. Kurka
Colonel, Corps of Engineers
District Engineer
Tulsa District

Todd Wang
Lieutenant Colonel, Corps of Engineers
District Engineer
Albuquerque District
APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT CESWF-05-RGP-2

1. In verifying authorization under this regional general permit (RGP), the Department of the Army has relied in part on the information provided by the permittee. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.

2. Structures and activities authorized by this RGP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.

3. This RGP is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose: a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. This RGP does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. This RGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.

4. This RGP may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that such action would be in the public interest.

5. Modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States (U.S.).

6. This RGP does not authorize interference with any existing or proposed federal project, and does not entitle the permittee to compensation for damage or injury to the structures or activities authorized herein that may result from existing or future operations undertaken by the U.S. in the public interest.

7. No attempt shall be made by permittees to prevent the full and free public use of any navigable water of the U.S.

8. Permittees shall not cause any unreasonable interference with navigation.

9. Permittees shall make every reasonable effort to conduct the activities in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly hard-mast-producing trees such as oaks and hickories. Permittees shall normally maintain existing buffers around waters of the U.S. and create and/or expand buffers around waters of the U.S. when practicable. Compensatory mitigation plans for projects in, or near, streams, other open waters, or wetlands shall normally include provisions for the establishment, maintenance, and legal protection, e.g. deed restrictions, conservation easements, of vegetated buffers to those waters.
10. Permittees shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the activity is being performed in accordance with the terms and conditions of this RGP.

11. Permittees must evaluate the effect that the proposed work would have on historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to the initiation of work. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest that occur in the permit area. If a known historic property would be encountered, the permittee shall notify the USACE and shall not conduct any work in the permit area that would affect the property until the requirements of 33 CFR Part 325, Appendix C, and 36 CFR Part 800 have been satisfied. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately notify the USACE and avoid further impact to the site until the USACE has verified that the requirements of 33 CFR Part 325, Appendix C, and 36 CFR Part 800 have been satisfied.

12. Materials to be placed into waters of the U.S. are restricted to clean native soils and concrete, sand, gravel, rock, other coarse aggregate, and other suitable material. All material used shall be free of toxic pollutants in toxic quantities.

13. Permittees shall coordinate all construction activities in federally-maintained channels and/or waterways for required setback distances with the USACE prior to application for a permit.

14. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

15. Activities that are likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that are likely to destroy or adversely modify the critical habitat of such species are not authorized. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

16. Permittees shall use and maintain appropriate erosion and siltation controls in effective operating condition during construction, and permanently stabilize all exposed soil at the earliest practicable date using native vegetation to the maximum extent practicable. Permittees shall remove all excess material and temporary fill and structures placed in waters of the U.S., including wetlands, to upland areas and stabilize all exposed slopes and stream banks immediately upon completion of construction. Permittees shall return all areas affected by temporary fills and/or structures to preconstruction conditions or better, including revegetation with native vegetation, to the maximum extent practicable. All material removed must be placed at least 100 feet from any water of the U.S., including wetlands, and adequately contained to prevent the return to any water of the U.S., including wetlands.

17. Permittees shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

18. Permittees shall not permanently restrict or impede the passage of low, normal, or expected high flows unless the primary purpose of the activity is to temporarily impound water or for authorized detention ponds for stormwater management.

19. Permittees shall properly maintain all structures and fills to ensure public safety.
20. Permittees shall ensure that projects have no more than minimal adverse impacts on public water supply intakes.

21. Stream realignment is not authorized by this RGP.

22. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

23. Permittees are not authorized to discharge dredged or fill material into waters of the U.S. for purposes of disposal into, or reclamation of, an aquatic area, such as a wetland.

24. Permittees shall not use a jet barge or similar equipment for trench excavation.

25. Permittees shall mark structures and fills, particularly in navigable waters of the U.S., when appropriate, so that their presence will be known to boaters.

26. Permittees shall mark intake and/or outfall structures and other fills and structures in navigable waters, when appropriate, so that boaters will notice their presence.

27. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.

28. Permittees are responsible for compliance with all terms and conditions of this RGP for all activities within the Department of the Army permit area of a project authorized by this RGP, including those taken on behalf of the permittee by other entities such as contractors and subcontractors. Permittees assume all liabilities associated with fills and impacts that are incurred by individuals and/or organizations working under contracts with the permittee. Before beginning the work authorized herein, or directing a contractor to perform such work, permittees shall ensure that all parties read, understand and comply with the terms and conditions of this permit. The USACE strongly encourages preconstruction meetings with all construction activities of the project.

29. Permittees shall conduct dredging and excavation activities with land based equipment rather than from the water body whenever practicable.

30. Permittees must comply with Federal Emergency Management Agency (FEMA), or FEMA-approved local floodplain development requirements in the placement of any permanent above-grade fills in waters of the U.S., including wetlands, within the 100-year floodplain. The 100-year floodplain will be identified through FEMA’s Flood Insurance Rate Maps or FEMA-approved local floodplain maps. A permanent above-grade fill is a discharge of dredged or fill material into waters of the U.S., including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the water body to dry land. Structural fills authorized by nationwide permits 3, 25, 36, etc., are not included.

31. For all discharges proposed for authorization in Dallas, Denton, and Tarrant Counties that are within the study area of the “Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries” (May 1986), permittees shall meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements. A copy of these guidelines is available upon request from the Fort Worth District and at the District website at http://www.swf.usace.army.mil/pubdata/environ/regulatory/index.asp.
32. To satisfy Texas Commission on Environmental Quality (TCEQ) water quality certification requirements for all projects to which Section 401 water quality certification by the TCEQ applies, the permittee must use at least one best management practice (BMP) from each of the first three categories of on-site water quality management and comply with item d, concerning contaminated dredged material below to satisfy TCEQ water quality certification requirements. Descriptions of the BMPs may be obtained from the TCEQ by calling (512) 239-5366, by calling one of the Corps district regulatory offices identified in the "PRECONSTRUCTION NOTIFICATIONS" section of this RGP, or from the USACE, Fort Worth District, web site at http://www.swf.usace.army.mil/public/environment/legislation/index.asp. The TCEQ-required BMPs are as follows:

a. Erosion Control

Disturbed areas must be stabilized to prevent the introduction of sediment to adjacent wetlands or water bodies during wet weather conditions (erosion). At least one of the following best management practices (BMPs) must be maintained and remain in place until the area has been stabilized.

- Temporary Vegetation
- Blankets/Matting
- Mulch
- Sed

b. Post-Construction TSS Control

After construction has been completed and the site is stabilized, total suspended solids (TSS) loadings shall be controlled by at least one of the following BMPs.

- Retention/Irrigation
- Extended Detention Basin
- Vegetative Filter Strips
- Constructed Wetlands
- Wet Basins
c. Sedimentation Control

The project area must be isolated from adjacent wetlands and water bodies by the use of BMPs to confine sediment. At least one of the following BMPs must be maintained and remain in place until project completion.

- Sand Bag Berm
- Silt Fence
- Triangular Filter Dike
- Rock Berm
- Hay Bale Dike

Dredged material shall be placed in such a manner that prevents sediment runoff into water in the state, including wetlands. Water bodies can be isolated by the use of one or more of the required BMPs identified for sedimentation control. These BMPs must be maintained and remain in place until the dredged material is stabilized.

Hydraulically dredged material shall be disposed of in contained disposal areas. Effluent from contained disposal areas shall not exceed a TSS concentration of 300 mg/l.

d. Contaminated Dredged Material

If contaminated dredge material that was not anticipated or provided for in the permit application is encountered during dredging, operations shall cease immediately. Pursuant to 26.039 (b) of the Texas Water Code, the individual operating or responsible for the dredging operations shall notify the commission's emergency response team at (512) 463-7727 as soon as possible, and not later than 24 hours after the discovery of the material. The applicant shall also notify the Corps that activities have been temporarily halted. Contaminated dredge material shall be remediated or disposed of in accordance with TCEQ rules. Dredging activities shall not be resumed until authorized in writing by the Commission.

Contaminated dredge material is defined as dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants which include, but are not limited to solid waste, hazardous waste and hazardous waste constituent as those terms are defined by 30 TAC Chapter 335, Pollutants as defined by Texas Water Code 26.001 and Hazardous Substances as defined in the Texas Health and Safety Code, 361.003.

33. To satisfy Railroad Commission of Texas (RRC) water quality certification requirements for all projects to which Section 401 water quality certification by the RRC applies, the permittee must demonstrate that activities that are not water dependent do not have a practicable alternative and may not consider compensatory mitigation an alternative.
APPENDIX C

NAVIGABLE WATERS OF THE UNITED STATES

For purposes of Section 10 of the Rivers and Harbors Act of 1899, the following sections of
rivers, including their lakes and other impoundments, are considered to be navigable waters of
the United States (U. S.) that fall within the jurisdiction of the Fort Worth, Albuquerque, and
Tulsa districts of the U. S. Army Corps of Engineers in the states of Texas and Louisiana.

ANGELINA RIVER: From the Sam Rayburn Dam in Jasper County upstream to U. S. Highway
59 in Nacogdoches and Angelina counties and all U. S. Army Corps of
Engineers lands associated with B. A. Steinhagen Lake in Tyler and
Jasper counties, Texas.

BIG CYPRESS BAYOU: From the Texas-Louisiana state line in Marion County, Texas,
upstream to Ellison Creek Reservoir in Morris County, Texas.

BRAZOS RIVER: From the point of intersection of Grimes, Washington, and Waller
counties upstream to Whitney Dam in Hill and Bosque counties, Texas.

COLORADO RIVER: From the Bastrop-Fayette county line upstream to Longhorn Dam in
Travis County, Texas.

NECHES RIVER: U. S. Army Corps of Engineers lands associated with B. A. Steinhagen
Lake in Jasper and Tyler counties, Texas.

RED RIVER: From Denison Dam on Lake Texoma upstream to Warrens Bend which is 7.25
miles northeast of Marysville, Texas, and from the U. S. Highway 71 bridge north
of Texarkana, Texas, to the Oklahoma-Arkansas Border.

RIO GRANDE: From the Zapata-Webb county line upstream to the point of intersection of the
Texas-New Mexico state line and Mexico.

SABINE RIVER: From the point of intersection of the Sabine-Vernon parish line in Louisiana
with Newton County, Texas upstream to the Sabine River-Big Sandy Creek
confluence in Upshur County, Texas.

SULPHUR RIVER: From the Texas-Arkansas state line upstream to Wright Patman Dam in
Cass and Bowie counties, Texas.

TRINITY RIVER: From the point of intersection of Houston, Madison, and Walker counties
upstream to Riverside Drive in Fort Worth, Tarrant County, Texas.
APPENDIX D

MITIGATING ADVERSE IMPACTS TO WATERS OF THE UNITED STATES

U.S. Army Corps of Engineers (USACE) evaluation of a project proposal submitted for authorization under this permit includes a determination of whether the applicant has taken sufficient measures to mitigate the project's likely adverse impacts to the aquatic ecosystem (See USACE Regulatory Guidance Letter 02-02 dated December 24, 2003, and USACE district websites for more detailed information.)

Applicants should employ the following three-step sequence in mitigating likely adverse project impacts: 1) take appropriate and practicable measures to avoid potential adverse impacts to the aquatic ecosystem; 2) employ appropriate and practicable measures to minimize unavoidable adverse impacts to the aquatic ecosystem; and 3) undertake appropriate and practicable measures to compensate for adverse impacts to the aquatic ecosystem that cannot be reasonably avoided or minimized. Compensatory mitigation, then, is the restoration, enhancement, creation, or preservation of wetlands and other waters of the United States (U.S.) to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

Compensatory mitigation should replace those aquatic system functions that would be lost or impaired because of the proposed activity. The appropriate type and amount of compensatory mitigation depends on the nature and extent of the project's likely adverse impact on those functions performed by the aquatic area(s) that would be impacted. These functions include, but are not limited to, flood storage and conveyance; providing habitat for fish, aquatic organisms, and other wildlife, including endangered species; sediment and erosion control; groundwater recharge; nutrient removal; water supply; production of food, fiber, and timber; and recreation. Compensatory mitigation should also be commensurate with the scope and degree of the anticipated impacts and be practicable in terms of cost, existing technology, and logistics, in light of the overall project purpose.

In general, in-kind compensatory mitigation is preferable to out-of-kind and should occur as close to the location of the adverse impacts as practicable, generally in the same watershed. However, environmentally preferable out-of-kind and/or off-site compensatory mitigation may be acceptable. Such mitigation options as mitigation banking and in-lieu fee mitigation may be appropriate when on-site or other off-site compensatory mitigation options are not available or not practicable. In some cases, it is appropriate to provide partial compensation at one location, such as the impact site, with the remainder occurring at an off-site location.

Normally, restoration or enhancement of wetland functions is preferable to wetland creation because the probability of successfully restoring or enhancing wetlands is greater than the probability of successfully creating new wetlands, and restoration and enhancement activities are less likely to impact upland and open water habitats. The preservation of existing wetlands is appropriate as compensatory mitigation only in exceptional situations.

Compensatory mitigation plans should include a thorough description of the proposed mitigation area; a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures; plan and cross-section drawings of pertinent work and structures; a statement explaining how adverse impacts to local hydrology will be minimized; and a proposal for monitoring the success of the proposed mitigation plan. Generally, monitoring should continue for at least five years after mitigation activities are completed, providing planting survival and ecological success requirements have been achieved. To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a deed restriction, may be required.
APPENDIX E

Attachment 1 - Dredge and Fill Certification
USACE Regional General Permit CESWF-05-RGP-2
June 21, 2005
Page 1 of 3

WORK DESCRIPTION: As described in the public notice dated February 22, 2005.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the application or joint public notice and shall expire five years from the date of issuance of the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission of Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. If this application is a modification of an original permit or any modification thereof for which a special condition was cited by the Commission or a predecessor agency, such conditions shall remain valid. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the Corps of Engineers and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work as directed by a Corps permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.

2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.

3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ, Emergency Spill Response, at (512) 453-7727.

4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.

5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.

6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.

7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.
8. Dredged Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.

9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TCEQ, Emergency Spill Response, shall be contacted at (512) 463-7727. Dredging activities shall not be resumed until authorized by the Commission.

10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Noncontaminated storm water from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.

11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: http://www.tnro.state.tx.us/permitting/waterperm/wpermm/construct.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4435.

12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, riprapped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters.

13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.

14. Where the control of weeds, insects, and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.

15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.

16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.

17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.
16. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.

19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.
September 2, 2005

U.S. ARMY CORPS OF ENGINEERS
REGULATORY BRANCH (CESWF-PER-R)
P.O. BOX 17300
FORT WORTH, TX 76102-0300
ATTN: PRESLEY HATCHER

Re: Proposed Regional General Permit for Utility Lines and Intake and Outfall Structures
Fort Worth District CESWF-05-RGP-2
Tulsa District TXG300331
Albuquerque District 2005-00060

Dear Mr. Hatcher:

The Railroad Commission of Texas (Commission) has received the public notice for the draft regional general permit dated February 22, 2005. The Commission is the certifying agency for federal permits covering activities in Texas associated with the exploration, development, and production, including pipeline transportation, of oil, gas, or geothermal resources that may result in discharges to waters of the United States. This office did not receive any comments on the proposed permit.

This office has examined the proposed general permit and identified no conflicts between the proposed permit and applicable state water quality laws, with two exceptions. In Texas, activities that are not water dependent are presumed to have a practicable alternative, unless the applicant demonstrates otherwise. In addition, compensatory mitigation is not considered an alternative. Our review indicates that, based on the information contained in the draft permit and public notice, and the addition of language to address these issues, there is a reasonable assurance that the permitted activities will be conducted in a manner which will not violate any applicable water quality requirements. The Commission also finds that no conditions more stringent than those in the draft permit, other than those noted above, would be necessary to comply with state water quality laws. Therefore, certification of the referenced proposed permit for compliance with applicable water quality laws conditional on addition of the recommended language or some version thereof is hereby granted.

Please call me at (512) 403-7308 if you have any questions.

Sincerely,

Leslie Savage
WQ Certification Coordinator
Oil and Gas Division
Railroad Commission of Texas

Cc: Tommie Seitz
    Bart Sims
Department of the Army-Corps of Engineers, Fort Worth District
P.O. Box 17300
Fort Worth, TX 76102-0300

Attention: Jessica Napier

Rt.: Water Quality Certification (JP 050121-05/AJ# 101986/C1R20050001)
    Renewal of Regional General Permit 2

Dear Ms. Napier,

After reviewing your request for the renewal of U.S. Army Corps of Engineers, Fort Worth District RGP-2, the Department has decided that it has no objections for the renewal of this general permit.

Sincerely,

[Signature]

Thomas R. Griggs
Engineer Manager

TRG/jgp
Nationwide Permit (NWP) Pre-Construction Notification (PCN) Form
This form integrates requirements of the Nationwide Permit Program within the Fort Worth District, including General and Regional Conditions. Please consult instructions included at the end prior to completing this form.

Contents
- Description of NWP 12
  - Part I: NWP Conditions and Requirements Checklist
    - General Conditions Checklist
    - NWP 12-Specific Requirements Checklist
    - Regional Conditions Checklist
  - Part II: Project Information Form
  - Part III: Project Impacts and Mitigation Form
  - Part IV: Attachments Form
  - Instructions

DESCRIPTION OF NWP 12 – UTILITY LINE ACTIVITIES

Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States (U.S.), provided the activity does not result in the loss of greater than 1/2-acre of waters of the U.S.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the U.S., provided there is no change in pre-construction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefied, 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 radio and television communication. The term "utility line" does not include activities that drain a water of the U.S., such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the U.S. for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the U.S., provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the U.S. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the U.S. to construct, maintain, or expand substation facilities.
Foundations for overhead utility line towers, poles, and anchors: This NWP authorizes the construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the U.S., provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pac) are used where feasible.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the U.S., provided the total discharge from a single and complete project does not cause the loss of greater than 1/2-acre of non-tidal waters of the U.S. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters for access roads. Access roads must be the minimum width necessary. Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work, in accordance with the requirements for temporary fills. Access roads must be constructed so that the length of the road minimizes any adverse effects on waters of the U.S. and must be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy roads or geotextile/gravels roads). Access roads constructed above pre-construction contours and elevations in waters of the U.S. must be properly bridged or culverted to maintain surface flows.

This NWP may authorize utility lines in or affecting navigable waters of the U.S. even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Overhead utility lines constructed over section 10 waters and utility lines that are routed in or under section 10 waters without a discharge of dredged or fill material require a section 10 permit.

This NWP also authorizes temporary structures, fills, and work necessary to conduct the utility line activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Part I: NWP Conditions and Requirements Checklist

To ensure compliance with the General Conditions (GC), in order for an authorization by a NWP to be valid, please answer the following questions:

1. Navigation (Applies to Section 10 waters [i.e. navigable waters of the U.S.], see instruction 4 for link to list):
   a. Does the project cause more than a minimal adverse effect on navigation?
      □ Yes  □ No  □ N/A
   b. Does the project require the installation and maintenance of any safety lights and signals prescribed by the U.S. Coast Guard on authorized facilities in navigable waters of the U.S.?
      □ Yes  □ No  □ N/A
   c. Does the Applicant understand and agree that if future operations by the U.S. require the removal, relocation, or other alteration of the structure 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 Applicant will be required, upon due notice from the USACE, to remove, relocate, or alter the

Page 2 of 21  SWF Recommended Application Form - NWP 12
structural work or obstructions caused thereby, without expense to the U.S.; and no claim shall be made against the U.S. on account of any such removal or alteration? □ Yes  □ No  □ N/A

If you answered yes to question a. or b. above, or if you answered no to question c. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

2. **Aquatic Life Movements:**
   a. Does the project substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area? □ Yes  □ No
   b. Is the project's primary purpose to impound water? □ Yes  □ No
   c. Will culverts placed in streams be installed to maintain low flow conditions? □ Yes  □ No  □ N/A

If you answered yes to question a. or b. above, or if you answered no to question c. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

3. **Spawning Areas:**
   a. Does the project avoid spawning areas during the spawning season to the maximum extent practicable? □ Yes  □ No  □ N/A
   b. Does the project result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area? □ Yes  □ No  □ N/A

If you answered no to question a. above, or if you answered yes to question b. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

4. **Migratory Bird Breeding Areas:**
   a. Does the project avoid waters of the U.S. that serve as breeding areas for migratory birds to the maximum extent practicable? □ Yes  □ No  □ N/A

If you answered no to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

5. **Shellfish Beds:**
   a. Does the project occur in areas of concentrated shellfish populations? □ Yes  □ No

If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

6. **Suitable Material:**
   a. Does the project use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.)? □ Yes  □ No
b. Is the material used for construction or discharged in a water of the U.S. free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act)? □ Yes □ No

If you answered yes to question a. above, or if you answered no to question b. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

7. Water Supply Intakes:
a. Does the project occur in the proximity of a public water supply intake? □ Yes □ No

If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

8. Adverse Effects From Impoundments:
a. Does the project create an Impoundment of water? □ Yes □ No

b. If you answered yes to question a. above, are the adverse effects (to the aquatic system due to accelerating the passage of water, and/or restricting its flow) minimized to the maximum extent practicable? □ Yes □ No □ N/A

If you answered no to question b. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

9. Management of Water Flows:
a. Does the project maintain the pre-construction course, condition, capacity, and location of open waters to the maximum extent practicable, for each activity, including stream channelization and storm water management activities? □ Yes □ No

b. Will the project be constructed to withstand expected high flows? □ Yes □ No

c. Will the project restrict or impede the passage of normal or high flows? □ Yes □ No

If you answered no to question a. or b. above, or if you answered yes to question c. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

10. Fills Within 100-Year Floodplains:
a. Does the project comply with applicable FEMA-approved state or local floodplain management requirements? □ Yes □ No □ N/A

If you answered no to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

11. Equipment:
a. Will heavy equipment working in wetlands or mudflats be placed on mats, or other measures be taken to minimize soil disturbance? □ Yes □ No □ N/A

If you answered no to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:
12. **Soil Erosion and Sediment Controls:**
   a. Will the project use appropriate soil erosion and sediment controls and maintain them in effective operating condition throughout construction?  □ Yes  □ No
   b. Will all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, be permanently stabilized at the earliest practicable date?  □ Yes  □ No
   c. Be aware that if work will be conducted within waters of the U.S., Applicants are encouraged to perform that work during periods of low-flow or no-flow.

If you answered no to question a. or b. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

13. **Removal of Temporary Fills:**
   a. Will temporary fills be removed in their entirety and the affected areas returned to pre-construction elevations?  □ Yes  □ No  □ N/A
   b. Will the affected areas be revegetated, as appropriate?  □ Yes  □ No  □ N/A

If you answered no to question a. or b. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

14. **Proper Maintenance:**
   a. Will any authorized structure or fill be properly maintained, including maintenance to ensure public safety?  □ Yes  □ No

If you answered no to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

15. **Wild and Scenic River:**
    There are no Wild and Scenic Rivers within the geographic boundaries of the Fort Worth District. Therefore, this GC does not apply.

16. **Tribal Rights:**
    a. Will the project or its operation impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights?  □ Yes  □ No  □ N/A

If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

17. **Endangered Species (see also Box 8 in Part III):**
    a. Is the project likely to 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 will the project destroy or adversely modify the critical habitat of such species?  □ Yes  □ No
    b. Might the project affect any listed species or designated critical habitat?  □ Yes  □ No
c. Is any listed species or designated critical habitat in the vicinity of the project?
   □ Yes   □ No

d. If the project "may affect" a listed species or critical habitat, has Section 7 consultation addressing the effects of the proposed activity been completed?
   □ Yes   □ No   □ N/A

If you answered yes to question a. or b. or c. above, or if you answered no to question d. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

18. Historic Properties (see also Box 9 in Part III):
   a. Does the project have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties?
      □ Yes   □ No   □ N/A

If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

19. Designated Critical Resource Waters:
   a. Will the project impact critical resource waters, which include NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment?
      □ Yes   □ No

If you answered yes to question a. above, be aware that discharges of dredged or fill material into waters of the U.S. are not authorized by NWP 12 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

20. Mitigation (see also Box 10 in Part III):
   a. Will the project include appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal?
      □ Yes   □ No

If you answered no to question a. above, please include an explanation in Box 10 of why no mitigation would be necessary in order to be in compliance with this GC or be aware that the project would require an individual permit application.

21. Water Quality (see also Box 11 in Part III):
   a. If in Texas, does the project comply with the conditions of the TCEQ water quality certification for NWP 12?
      □ Yes   □ No   □ N/A
   b. If in "Indian Country," does the project comply with the conditions of the EPA water quality certification for NWPs?
      □ Yes   □ No   □ N/A

If you answered no to question a. or b. above, please be aware that the project would require an individual permit application.

22. Coastal Zone Management:
The Fort Worth District does not cover any Coastal Zone; therefore, this GC does not apply.
23. **Regional and Case-By-Case Conditions:**

   See the Regional Conditions checklist below to ensure compliance with this GC.

24. **Use of Multiple Nationwide Permits:**

   a. Does the project use more than one NWP for a single and complete project?
      - Yes  □  No □
   
   b. If you answered yes to question a. above, be aware that unless the project’s acreage loss of waters of the U.S. authorized by the NWPs is below the acreage limit of the NWP with the highest specified acreage limit, no NWP can be issued and the project would require an individual permit application.

   If you answered yes to question a. above, please explain how the project would be in compliance with this GC and what additional NWP number you intend to use:

25. **Transfer of Nationwide Permit Verifications:**

   a. Does the Applicant agree that if he or she sells the property associated with the nationwide permit verification, the Applicant may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate USACE district office to validate the transfer?
      - Yes □  No □

26. **Compliance Certification:**

   a. Does the Applicant agree that if he or she receives the NWP verification from the USACE, they must submit a signed certification regarding the completed work and any required mitigation (the certification form will be sent by the USACE with the NWP verification letter)?
      - Yes □  No □

27. **Notification:**

   a. Reason for notification
      - Mechanized land clearing in a forested wetland.
      - Require a Section 10 permit.
      - Utility line exceeds 500 feet in waters of the U.S., excluding overhead lines.
      - Utility line is within a jurisdictional area (i.e., water of the U.S.), and the utility line runs parallel to a stream bed that is within that jurisdictional area.
      - The loss of waters of the U.S. exceeds 1/10 acre.
      - Permanent access roads are constructed above grade in waters of the U.S. for a distance of more than 500 feet.
      - Permanent access roads are constructed in waters of the U.S. with impervious materials.
      - Potential endangered species.
      - Potential historic properties.
      - Discharge into pitcher plant bog or bald cypress-tupelo swamp.
      - Discharge into the area of Caddo Lake within Texas that is designated as a "Wetland of International Importance" under the Ramsar Convention.
      - Required by Louisiana Regional Conditions.
      - Other:

   b. Does the Applicant agree that he or she will not begin the project until either:
      1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
      2) Forty-five calendar days have passed from the district engineer's receipt of the complete PCN and the Applicant has not received written notice from the district or division engineer? However, if the Applicant was required to notify the USACE pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to
notify the USACE pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the Applicant cannot begin the activity until receiving written notification from the USACE that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act and/or Section 106 of the National Historic Preservation Act is completed. □ Yes □ No

c. Does the Applicant agree that if the district or division engineer notifies the Applicant in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the Applicant cannot begin the activity until an individual permit has been obtained? □ Yes □ No

28. Single and Complete Project:
   a. Does the Applicant certify that the project is a "single and complete project" or that each crossing meets the description below for a "single and complete project"?
      □ Yes □ No

   **Single and complete project:** The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete project must have independent utility (see definition). For linear projects, a "single and complete project" is all crossings of a single water of the U.S. (i.e., a single waterbody) at a specific location. For linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

   **Independent utility:** Defined as a test to determine what constitutes a single and complete project in the USACE regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.
To ensure compliance with the NWP 12-specific requirements please answer the first question regarding all utility line activities and then answer the other questions as they apply to your project.

All utility line activities:
1. Does the project cause the loss of greater than 1/2-acre non-tidal waters of the U.S. at any crossing considered a single and complete project? ☐ Yes ☐ No

   If you answered yes to question 1. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application or the use of regional general permit CESWF-05-RGP-2 (see USACE Fort Worth District website for information on conditions and requirements).

2. Does each activity/crossing considered a single and complete project have independent utility? ☐ Yes ☐ No ☐ N/A

   If you answered no to question 2. above, be aware that the project may require an individual permit application.

3. a. Will any temporary structures, fills, and work necessary to construct the project meet the criteria for maintaining flows, minimizing flooding, and withstanding high flows? ☐ Yes ☐ No ☐ N/A

   b. Will temporary structures and fills be removed in their entirety and the affected areas be returned to pre-construction elevations and revegetated, as appropriate? ☐ Yes ☐ No ☐ N/A

   If you answered no to question 3a. or 3b. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

Utility lines:
4. Does the project involve a change in pre-construction contours? ☐ Yes ☐ No

   If you answered yes to question 4. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

5. Does the project include activities that drain a water of the U.S., such as drainage tile or french drains? ☐ Yes ☐ No

   If you answered yes to question 5. above, be aware that the project is not considered a “utility line” and would not be authorized by a NWP 12 and may require an individual permit application. Note: Pipes that convey drainage from another area are considered a “utility line.”

6. a. Does the project involve leaving sidecasts from trench excavation in waters of the U.S. for more than three months? ☐ Yes ☐ No

   b. Does the project involve placing sidecasts from trench excavation in waters of the U.S. in such a manner that the sidecasts are dispersed by current or other forces? ☐ Yes ☐ No

   If you answered yes to question 6a. above, be aware that the district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate, and otherwise an individual permit application may be required. If you answered yes to question 6b.
above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

7. In wetlands, does the project involve backfilling the top 6 to 12 inches of the trench with topsoil from the trench?  □ Yes  □ No  □ N/A

If you answered no to question 7. above, please explain how the project would be in compliance with this requirement and be aware that the project may not be authorized by a NWP 12 and may require an individual permit application:

8. Does the project involve constructing or backfilling a trench in such a manner as to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a trench drain effect)?  □ Yes  □ No

If you answered yes to question 8. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

9. Will the project, upon completion of the utility line crossing of each waterbody, immediately stabilize exposed slopes and stream banks?  □ Yes  □ No  □ N/A

If you answered no to question 9. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

10. Does the project involve pipes or pipelines that will be used to transport gaseous, liquid, luscent, or slurry substances over navigable waters of the U.S.?  □ Yes  □ No  □ N/A

If you answered yes to question 10. above, be aware that these pipes or pipelines are considered to be bridges, not utility lines, and may require a permit from the U.S. Coast Guard pursuant to Section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material into waters of the U.S. associated with such pipes or pipelines will require a Section 404 permit (see NWP 15).

Utility line substations:
11. Does the project involve discharges into non-tidal wetlands adjacent to tidal waters of the U.S.?  □ Yes  □ No

If you answered yes to question 11. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

Foundations for overhead utility line towers, poles, and anchors:
12. If the project includes construction or maintenance of foundations for overhead utility line towers, poles, and/or anchors in waters of the U.S., are these the minimum size necessary and are separate footings for each tower leg (rather than a larger single pad) used where feasible?  □ Yes  □ No  □ N/A

If you answered no to question 12. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.
Access Road(s):

13. Will the access road(s) be used for the construction and maintenance of utility lines, including overhead power lines and utility line substations, and, for a single and complete project, cause the loss of no greater than 1/2-acre of non-tidal waters of the U.S.?  
☐ Yes  ☐ No  ☐ N/A

If you answered no to question 13. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

14. Does the project involve discharges into non-tidal wetlands adjacent to tidal waters of the U.S.?  
☐ Yes  ☐ No

If you answered yes to question 14. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

15. a. Will the access road(s) in waters of the U.S. be the minimum width necessary?  
☐ Yes  ☐ No

b. Will the access road be constructed so that the length of the road minimizes any adverse effects on waters of the U.S.?  ☐ Yes  ☐ No

If you answered no to question 15a. or 15b. above, be aware that the project would not be authorized by a NWP 12 and may require an individual permit application.

16. a. Will the access road(s) be as near as possible to pre-construction contours and elevations (e.g., at grade corduroy road or geotextile/gravel road) so as to minimize any adverse effects on waters of the U.S.?  ☐ Yes  ☐ No

b. Will access roads constructed above pre-construction contours and elevations in waters of the U.S. be properly bridged or culverted to maintain surface flows?  ☐ Yes  ☐ No

If you answered no to question 16a. or 16b. above, be aware that the project may not be authorized by a NWP 12 and may require an individual permit application.

17. Will access roads used solely for construction of the utility line be removed upon completion of the work, in accordance with the requirement for temporary fills?  ☐ Yes  ☐ No

If you answered no to question 17. above, be aware that the project may not be authorized by a NWP 12 and may require an individual permit application.
REGIONAL CONDITIONS CHECKLIST

To ensure compliance with the Regional Conditions within the Fort Worth District, in the State of Texas, in order for an authorization by a NWP to be valid, please answer the following questions (for projects in Texas only):

1. Will the project include required compensatory mitigation at a minimum one-for-one ratio for all special aquatic sites that exceed 1/10 acre and require pre-construction notification, and for all losses to streams that exceed 300 linear feet and require pre-construction notification (unless the appropriate District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement)?
   - Yes
   - No
   - N/A

   If you answered no to question 1. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

2. Does the project involve a discharge into habitat types that are wetlands (typically referred to as pitcher plant bogs) that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.) or wetlands (typically referred to as bald cypress-tupelo swamps comprised predominantly of bald cypress trees (Taxodium distichum), and water tupelo (Nyssa aquatica), that are occasionally or regularly flooded by fresh water with common associates including red maple (Acer rubrum), swamp privet (Forestiera acuminata), green ash (Fraxinus pennsylvanica), water elm (Planera aquatica), lizard's tail (Saururus cernuus), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis), and smartweed (Polygonum spp.)?  
   - Yes
   - No

   If you answered yes to question 2. above, notification of the District Engineer is required in accordance with NWP GC 27, and the USACE will coordinate with other resource agencies as specified in NWP GC 27(d).

3. Is the project in the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention?  
   - Yes
   - No

   If you answered yes to question 3. above, notification of the District Engineer is required in accordance with NWP GC 27, and the USACE will coordinate with other resource agencies as specified in NWP GC 27(d).

4. a. Is the project in an area of Dallas, Denton, or Tarrant counties that is within the study area of the “Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries” (May 1986)?  
   - Yes
   - No

   b. If Yes, does the project meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements?  
   - Yes
   - No
   - N/A

   If you answered no to question 4b. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

5. Does the project involve mechanized land clearing in a forested wetland?  
   - Yes
   - No

   If you answered yes to question 5. above, notification of the District Engineer is required in accordance with NWP GC 27 prior to commencing the activity.
To ensure compliance with the Regional Conditions within the Fort Worth District, in the State of Louisiana, in order for an authorization by a NWP to be valid, please answer the following questions (for projects in Louisiana only):

1. Does the activity cause the permanent loss of greater than 1/2 acre of seasonally inundated cypress swamp and/or cypress-tupelo swamp? □ Yes □ No

   If you answered yes to question 1. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

2. Does the activity cause the permanent loss of greater than 1/2 acre of pine savanna, pine flatwoods, and/or pitcher plant bogs? □ Yes □ No

   If you answered yes to question 2. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

3. Has the activity been determined to have an adverse impact upon a federal or state designated rookery and/or bird sanctuary? □ Yes □ No

   If you answered yes to question 3. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

4. Does the activity fell any existing den or candidate den trees within areas known to be occupied by the threatened Louisiana black bear? (Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs, or other waterbodies.) □ Yes □ No

   If you answered yes to question 4. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

5. Does the project involve instream activities in the following waterways: Bayou Boeuf Tributaries in Repides Parish: (Brown Creek, Mack Branch, Clear Creek, Little Brushy Creek, Loving Creek, Little Loving Creek, Long Branch, Bayou Clear, Castor Creek, Valentine Creek, and Little Bayou Clear), Amite River (LA Highway 37 at Grangeville to Port Vincent), Bogue Falaya River and Tributaries, Abita River and Tributaries, Bayou Chinchuba (between U.S. 190 and Louisiana Highway 59), West Pearl River, Bogue Chitto River and Tributaries, and Red River tributaries in Grant Parish (Black Creek, Swafford Creek, Cypress Creek, Beaver Creek, Cress Creek, Jordon Creek, Hudson Creek, Gray Creek, Moccasin Branch and James Branch)? □ Yes □ No

   If you answered yes to question 5. above, notification of the District Engineer is required in accordance with NWP GC 27 due to the occurrence of threatened or endangered species.

6. To the best of the applicant’s knowledge, is any excavated and/or fill material to be placed within wetlands free of contaminants? □ Yes □ No □ N/A

   If you answered no to question 6. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

7. Regional Condition 7 applies to work within the Louisiana Coastal Zone and/or the Outer Continental Shelf off Louisiana, and therefore does not apply in the USACE Fort Worth District. Work in these areas may require coordination with the USACE Galveston or New Orleans districts.
8. Does the activity adversely affect greater than 1/10 acre of wetlands, and/or adversely impact a designated Natural and Scenic River, a state or federal wildlife management area, and/or refuge?  
☐ Yes  ☐ No  

If you answered yes to question 8. above, notification of the District Engineer is required in accordance with NWP GC 27.

9. a. For NWP 12, the Regional Conditions for Louisiana require a 50-foot gap for every 500 linear feet of sidecast material resulting from trench excavation activities associated with utility line construction.  
Does the project meet this condition?  ☐ Yes  ☐ No  ☐ N/A  
b. Additionally, no fill shall be placed in a manner which would impede natural watercourses. Does the project meet this condition?  ☐ Yes  ☐ No  ☐ N/A  

If you answered no to question 9a. above, be aware that under certain circumstances the gap intervals may be modified, but otherwise the project would require an individual permit application. If applicable, explain why a modified gap interval is necessary.

If you answered no to question 9b. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

10. For NWP 12, the Regional Conditions for Louisiana require a PCN, as defined under NWP GC 27, for utility line activities regardless of impact acreage. The U.S. Fish and Wildlife Service and National Marine Fisheries Service will be forwarded a copy of the PCN.

Additional Discussion:
**Part II: Project Information**

<table>
<thead>
<tr>
<th>Box 1</th>
<th>Project Name:</th>
<th>Applicant Name</th>
</tr>
</thead>
</table>

**Applicant Title**

Applicant Company, Agency, etc.

**Mailing Address**

Applicant’s internal tracking number (if any)

**Work Phone** with area code  |  **Home Phone** with area code  |  **Fax #**  |  **E-mail Address**  |

**Relationship of applicant to property:**

- [ ] Owner
- [ ] Purchaser
- [ ] Lessee
- [ ] Other:

Application is hereby made for verification that subject regulated activities associated with subject project qualify for authorization under a USACE nationwide permit or permits as described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agency to which this application is made the right to enter the above-described location to inspect the proposed, in-progress, or completed work. I agree to start work only after all necessary permits have been received.

**Signature of applicant**  

Date (mm/dd/yyyy)

**Box 2 Authorized Agent/Operator Name and Signature:**  
*(If an agent is acting for the applicant during the permit process)*

<table>
<thead>
<tr>
<th>Agent/Operator Title</th>
<th>Agent/Operator Company, Agency, etc.</th>
</tr>
</thead>
</table>

**Mailing Address**

**E-mail Address**

**Work Phone** with area code  |  **Home Phone** with area code  |  **Fax #**  |  **Cell Phone #**  |

I hereby authorize the above-named agent to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. I understand that I am bound by the actions of my agent, and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.

**Signature of applicant**  

Date (mm/dd/yyyy)

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate.

**Signature of authorized agent**  

Date (mm/dd/yyyy)

**Box 3 Name of property owner, if other than applicant:**

- [ ] Multiple Current Owners  
*(If multiple current property owners, check here and include a list as an attachment)*

<table>
<thead>
<tr>
<th>Owner Title</th>
<th>Owner Company, Agency, etc.</th>
</tr>
</thead>
</table>

**Mailing Address**
### Box 4  Project location, including street address, city, county, state, and zip code where proposed activity will occur:

**Nature of Activity** (Description of project; include all features; see instructions):

**Project Purpose** (Description of the reason or purpose of the project; see instructions):

- Has a delineation of waters of the U.S., including wetlands, been completed? (see instructions)
  - [ ] Yes, Attached
  - [ ] No
- If a delineation has been completed, has it been verified in writing by the USACE?
  - [ ] Yes, Date of approved or preliminary jurisdictional determination (mm/dd/yyyy): USACE project:
  - [ ] No
- Are color photographs of the existing conditions available?
  - [ ] Yes, Attached
  - [ ] No
- Are aerial photographs available?
  - [ ] Yes, Attached
  - [ ] No

**Multiple Single and Complete Crossings** (If multiple single and complete crossings, check here and complete the table in Attachment D):

**Waterbody(ies)** (if known; otherwise enter "an unnamed tributary to"):

**Tributary(ies) to what known, downstream waterbody(ies):**

**Latitude & longitude** (Decimal Degrees):

**USGS Quad map name(s):**

**Watershed(s) and other location descriptions, if known:**

**Directions to the project location:**

### Part III: Project Impacts and Mitigation

**Box 5  Reason(s) for Discharge into waters of the U.S.:**

**Type(s) of material being discharged and the amount of each type in cubic yards:**

**Total surface area (in acres) of wetlands or other waters of the U.S. to be filled:**
Indicate the proposed impacts to **waters of the U.S.** in ACRES (for wetlands and impoundments) and LINEAR FEET (for rivers and streams), and identify the impact(s) as permanent and/or temporary for each waterbody type listed below. For projects with multiple single and complete crossings, the table below should indicate the cumulative totals of those single and complete crossings that require notification as outlined in Part I, GC question 27, and would not determine the threshold for whether a project qualifies for a NWP. The table below is intended as a tool to summarize impacts by resource type for planning compensatory mitigation and does not replace the summary table of single and complete crossings in Attachment D for those projects with multiple single and complete crossings.

<table>
<thead>
<tr>
<th>Waterbody Type</th>
<th>Permanent</th>
<th></th>
<th></th>
<th>Temporary</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acres</td>
<td>Linear feet</td>
<td>Acres</td>
<td>Linear feet</td>
<td></td>
</tr>
<tr>
<td>Non-forested wetland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forested wetland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perennial stream</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intermittent stream</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ephemeral stream</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impoundment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Potential indirect and/or cumulative impacts of proposed discharge (if any):

Required drawings (see instructions):

Vicinity map: ☐ Attached

To-scale plan view drawing(s): ☐ Attached

To-scale elevation and/or cross section drawing(s): ☐ Attached

Is any portion of the work already complete? ☐ Yes ☐ No

If yes, describe the work:

**Box 6 Authority:** (see instructions)

Is Section 10 of the Rivers and Harbors Act for projects affecting navigable waters applicable? ☐ Yes ☐ No *(see Fort Worth District Navigable Waters list)*

Is Section 404 of the Clean Water Act applicable? ☐ Yes ☐ No

**Box 7 Larger Plan of Development:**

Is the discharge of fill or dredged material for which Section 10/404 authorization is sought intended for a utility line project which is part of a larger plan of development? ☐ Yes ☐ No *(If yes, please provide the information in the remainder of Box 7)*

Does the utility line project have independent utility in addition to the larger plan of development (e.g., major transmission line, main water line, etc.)? ☐ Yes ☐ No

If yes, explain:

If discharge of fill or dredged material is part of development, name and proposed schedule for that larger development (start-up, duration, and completion dates):
Location of larger development (If discharge of fill or dredged material is part of a plan of development, a map of suitable quality and detail for the entire project site should be included):

Total area in acres of entire project area (including larger plan of development, where applicable):

<table>
<thead>
<tr>
<th>Box 8  Federally Threatened or Endangered Species (see instructions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please list any federally-listed (or proposed) threatened or endangered species or critical habitat potentially affected by the project (use scientific names (i.e., genus species), if known):</td>
</tr>
<tr>
<td>Have surveys, using U.S. Fish and Wildlife Service (USFWS) protocols, been conducted?</td>
</tr>
<tr>
<td>☐ Yes, Report attached ☐ No (explain):</td>
</tr>
<tr>
<td>If a federally-listed species would potentially be affected, please provide a description and a biological evaluation.</td>
</tr>
<tr>
<td>☐ Yes, Report attached ☐ Not attached</td>
</tr>
<tr>
<td>Has Section 7 consultation been initiated by another federal agency?</td>
</tr>
<tr>
<td>☐ Yes, Initiation letter attached ☐ No</td>
</tr>
<tr>
<td>Has Section 10 consultation been initiated for the proposed project?</td>
</tr>
<tr>
<td>☐ Yes, Initiation letter attached ☐ No</td>
</tr>
<tr>
<td>Has the USFWS issued a Biological Opinion?</td>
</tr>
<tr>
<td>☐ Yes, Report attached ☐ No</td>
</tr>
<tr>
<td>If yes, list date Opinion was issued (mm/dd/yyyy):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Box 9  Historic properties and cultural resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please list any historic properties listed (or eligible to be listed) on the National Register of Historic Places which the project has the potential to affect:</td>
</tr>
<tr>
<td>Has an archaeological records search been conducted?</td>
</tr>
<tr>
<td>☐ Yes, Report attached ☐ No (explain):</td>
</tr>
<tr>
<td>Are any cultural resources of any type known to exist on-site?</td>
</tr>
<tr>
<td>☐ Yes ☐ No</td>
</tr>
<tr>
<td>Has an archaeological pedestrian survey been conducted for the site?</td>
</tr>
<tr>
<td>☐ Yes, Report attached ☐ No (explain):</td>
</tr>
<tr>
<td>Has Section 106 or SHPO consultation been initiated by another federal or state agency?</td>
</tr>
<tr>
<td>☐ Yes, Initiation letter attached ☐ No</td>
</tr>
<tr>
<td>Has a Section 106 MOA been signed by another federal agency and the SHPO?</td>
</tr>
<tr>
<td>☐ Yes, Attached ☐ No</td>
</tr>
<tr>
<td>If yes, list date MOA was signed (mm/dd/yyyy):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Box 10  Proposed Conceptual Mitigation Plan Summary (see instructions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measures taken to avoid and minimize impacts to waters of the U.S. (if any):</td>
</tr>
<tr>
<td>Applicant proposes combination of one or more of the following mitigation types:</td>
</tr>
<tr>
<td>☐ Mitigation Bank ☐ On-site ☐ Off-site (Number of sites: ) ☐ None</td>
</tr>
</tbody>
</table>
Applicant proposes to purchase mitigation bank credits: □ Yes □ No

Mitigation Bank Name:

Number of Credits:

Indicate in ACRES (for wetlands and impoundments) and LINEAR FEET (for rivers and streams) the total quantity of waters of the U.S. proposed to be created, restored, enhanced, and/or preserved for purposes of providing compensatory mitigation. Indicate mitigation site type (on- or off-site) and number. Indicate waterbody type (non-forested wetland, forested wetland, perennial stream, intermittent stream, ephemeral stream, impoundment, other) or non-jurisdictional (uplands^1).

<table>
<thead>
<tr>
<th>Mitigation Site Type and Number</th>
<th>Waterbody Type</th>
<th>Created</th>
<th>Restored</th>
<th>Enhanced</th>
<th>Preserved</th>
</tr>
</thead>
<tbody>
<tr>
<td>e.g., On-site 1</td>
<td>Non-forested wetland</td>
<td>0.5 acre</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.g., Off-site 1</td>
<td>Intermittent stream</td>
<td></td>
<td>500 LF</td>
<td>1000 LF</td>
<td></td>
</tr>
</tbody>
</table>

Totals:

^1 For uplands, please indicate if designed as an upland buffer.

Summary of Mitigation Work Plan (Describe the mitigation activities listed in the table above):

If no mitigation is proposed, provide a detailed explanation of why no mitigation would be necessary to ensure that adverse effects on the aquatic environment are minimal:

Has a conceptual mitigation plan been prepared in accordance with the USACE regulations and guidelines? □ Yes, Attached □ No (explain):

Mitigation site(s) latitude & longitude (Decimal Degrees): USGS Quad map name(s):

Other location descriptions, if known:

Directions to the mitigation location(s):

---

Box 11 Water Quality Certification (see instructions):

For Texas:

Does the project meet the conditions of the Texas Commission on Environmental Quality (TCEQ) Clean Water Act Section 401 certification for NWP 12? □ Yes □ No

Does the project include soil erosion control and sediment control Best Management Practices (BMPs)? □ Yes □ No

Does the project include BMPs for post-construction total suspended solids control? □ Yes □ No
For Louisiana:
LDEQ has issued water quality certification for NWP 12 without conditions.

For Tribal Lands ("Indian Country"): Does the project meet the conditions of the EPA water quality certification for NWPs?
☐ Yes  ☐ No

Box 12 List of other certifications or approvals/denials received from other federal, state, or local agencies for work described in this application:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Approval Type²</th>
<th>Identification No.</th>
<th>Date Applied</th>
<th>Date Approved</th>
<th>Date Denied</th>
</tr>
</thead>
</table>

² Would include but is not restricted to zoning, building, and floodplain permits
Part IV: Attachments

A. List of Property Owners
B. Delineation of Waters of the U.S., Including Wetlands
C. Color Photographs
D. Summary Table of Single and Complete Crossings
E. Required Drawings/Figures
F. Threatened or Endangered Species Reports and/or Letters
G. Historic Properties and Cultural Resources Reports and/or Letters
H. Conceptual Mitigation Plan
I. Other:

End of Form
### Attachment D: Summary Table of Single and Complete Crossings

<table>
<thead>
<tr>
<th>Waterbody ID(^1)</th>
<th>Latitude and Longitude (Decimal Degrees)</th>
<th>Resource Type(^2)</th>
<th>Linear Feet in Project Area</th>
<th>Acres in Project Area</th>
<th>Impact Type(^3)</th>
<th>Linear Feet of Impact</th>
<th>Acres of Impact</th>
<th>Cubic Yards of Material to be Discharged</th>
<th>PCN Required</th>
<th>Reason(^4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>e.g., W-1 32.755°N, 97.755°W</td>
<td>NFW</td>
<td>-</td>
<td>0.25</td>
<td>D/P</td>
<td>-</td>
<td>0.15</td>
<td>1210</td>
<td>Yes</td>
<td>A, B</td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) Waterbody ID may be the name of a feature or an assigned label such as "W-1" for a wetland.

\(^2\) Resource Types:
- NFW – Non-forested wetland
- PW – Forested wetland
- PS – Perennial Stream
- IS – Intermittent Stream
- ES – Ephemeral Stream
- I – Impoundment

\(^3\) Impact Types:
- D/P – Direct\(^*\) and Permanent
- D/T – Direct and Temporary
- I/P – Indirect\(^**\) and Permanent
- I/T – Indirect and Temporary

\(^*\) Direct impacts are here defined as those adverse affects caused by the proposed activity, such as discharge or excavation.

\(^**\) Indirect impacts are here defined as those adverse affects caused subsequent to the proposed activity, such as flooding or effects of drainage on adjacent waters of the U.S.

\(^4\) Reasons for PCN requirement:
- A – Mechanized land clearing in a forested wetland
- B – Require a Section 10 permit
- C – Utility line exceeds 500 feet in waters of the U.S., excluding overhead lines
- D – Utility line is within a jurisdictional area (i.e., water of the U.S.), and the utility line runs parallel to a stream bed that is within that jurisdictional area
- E – The loss of waters of the U.S. exceeds 1/10 acre
- F – Permanent access roads are constructed above grade in waters of the U.S. for a distance of more than 500 feet
- G – Permanent access roads are constructed in waters of the U.S. with impervious materials
- H – Potential endangered species
- I – Potential historic properties
- J – Discharge into pitcher plant bog or bald cypress-tupelo swamp
- K – Discharge into the area of Caddo Lake within Texas that is designated as a "Wetland of International Importance" under the Ramsar Convention
- L – Required by Louisiana Regional Conditions
- M – Other
Instructions: [please do not include these pages when submitting form]

1) Complete Part I of the form first to determine if the project meets the conditions and requirements of NWP 12, including the General and Regional Conditions as well as the notification requirements. Additional information on the general conditions is available at the following website:


2) Boxes 1 to 3: Provide contact information for the Applicant, Agent, Owner, etc.

3) Box 4:
   a. **Nature of Activity:** Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms. The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach a separate sheet marked “Box 4 Nature of Activity.”

   b. **Proposed Project Purpose:** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project.

   c. **Delineation of waters of the U.S.:**

   Waters of the U.S. are defined under 33 CFR part 328.3 (a) as:

   (1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

   (2) All interstate waters including interstate wetlands;

   (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

      (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

      (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

      (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

   (4) All impoundments of waters otherwise defined as waters of the U.S. under the definition;

   (5) Tributaries of waters identified in paragraphs (a) (1) through (4) of this section;

   (6) The territorial seas;

   (7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) (1) through (6) of this section.

In addition, 33 CFR part 328.3 (b) states: 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.
Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, the ordinary high water mark, as well as any adjacent wetlands, demarcate the limits of non-tidal waters of the U.S. Wetlands are identified and delineated using the methods and criteria established in the USACE Wetlands Delineation Manual (1987 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils, and wetland hydrology) as well as any applicable interim regional supplements.

d. **Multiple Single and Complete Crossings:** If the project includes multiple crossings which qualify as single and complete projects (see definitions in Part I question for General Condition 28), include information for each crossing in the summary table in Attachment D.

4) **Box 5:**

**Required drawings (see examples in separate file):** Submit one legible copy of all drawings (8 1/2 x 11-inch or 11 x 17-inch) with a 1-inch margin around the entire sheet. The title box shall contain the title of the proposed project, date, and sheet number.

i. **Vicinity map:** Cover an area large enough so the project can be easily located; include arrow marking the project area, identifiable landmarks (e.g., named waterbody, county, city), name or number of roads, north arrow, and scale.

ii. **Plan view:** Include features such as existing bank lines, ordinary high water mark line(s), average water depth around the activity, dimensions of the proposed project, dimensions of any structures immediately adjacent to the proposed activity, north arrow, and scale.

iii. **Elevation and/or cross-section views:** Include features such as water elevation as shown on plan view drawing, existing and proposed ground level, dimensions of the proposed project, dimensions of any structures immediately adjacent to the proposed activity, and scale.

5) **Box 6:** A list of navigable waters in the Fort Worth District can be found at the following website:


Under Section 404 of the Clean Water Act, the USACE regulates the discharge of dredged or fill material into waters of the U.S. More information on regulated activities can be found at the following website:


6) **Box 8:** Information on federally threatened or endangered species may be found on the U.S. Fish and Wildlife Service website and the Texas Parks and Wildlife Department website. Include an attachment if additional space is required for listing species or critical habitat potentially affected by the project.


http://www.tpwd.state.tx.us/huntwild/wild/species/endang/index.phtml

http://www.tpwd.state.tx.us/landwater/land/maps/gis/ris/endangered_species/

7) **Box 10:** When completing this box, be aware that the USACE will consider if the project has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site when determining appropriate
and practicable mitigation necessary to ensure that adverse effects to the aquatic environment are minimal. The USACE may also require compensatory mitigation at a minimum one-for-one ratio for losses of wetlands, streams, and open waters to ensure that the project results in minimal adverse effects on the aquatic environment. See the USACE Fort Worth District Regulatory Branch website for a mitigation plan template and requirements.


8) **Box 11:** Projects in Texas should meet the conditions of the Texas Commission on Environmental Quality (TCEQ) Clean Water Act Section 401 certification for NWP 12. The TCEQ conditions of Section 401 certification for NWP 12 as well as a description of Best Management Practices can be found at the following website:


Projects in Louisiana require water quality certification from the Louisiana Department of Environmental Quality (LDEQ). LDEQ has issued water quality certification for NWP 12 without conditions. Information about water quality certification from LDEQ can be found at the following website:


The Environmental Protection Agency (EPA) is the agency required to address water quality certification of the 2007 NWPs in “Indian Country” where a tribe has not received treatment in the same manner as a state for the Clean Water Act (CWA) Section 401 program. “Indian Country,” as defined in 18 U.S.C. 1151, means: (1) all land within the limits of any Indian reservation under the jurisdiction of the U.S. government, not withstanding the issuance of any patent, and including rights-of-way running through the reservation; (2) all dependent Indian communities within the borders of the U.S. whether within the original or subsequently-acquired territory thereof, and whether within or without the limits of a state; and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. At this time, no Indian tribes in Texas or Louisiana have CWA Section 401 authority.

The EPA has developed a list of conditions that must be met in order for water quality certification of NWPs in “Indian Country” lands. The list of “401 Certification Conditions of Nationwide Permits for Tribal Lands in Texas” can be found at the following website:


The list of “Water Quality Regional NWPs Conditions for ‘Indian Country’ Lands” in Louisiana can be found in Part III of the document at the following website:


9) **Attachments:** Check the boxes in Part IV for those attachments that are included, and place a cover sheet or tab with each attachment behind the last page of the form. If Attachment D is not needed, discard this page, but if more room is necessary, include an additional table.
General Recommendations for
Department of the Army
Permit Submittals
June 11, 2001

The following recommendations from the U.S. Army Corps of Engineers (USACE), Fort Worth District, specify information that should be submitted with project proposals for review of permitting requirements under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899:

1. The purpose of, and need for, the project.

2. A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment. Delineations of wetlands must be conducted using the “Corps of Engineers Wetland Delineation Manual”, USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at http://www.wes.army.mil/el/wetlands/wp/pubs.html), including all supplemental guidance (currently includes guidance dated October 7, 1991, and March 6, 1992). The supplemental guidance is included in the on-line version and may also be obtained from your USACE district office. In addition, include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.

3. A vicinity map (e.g., county map, USGS topographic map, etc.) showing the location of all temporary and permanent elements of the project, including the route of the entire highway or road, borrow pit(s), disposal site(s), staging area(s), etc. This map, or an additional map, should show the project area in relation to nearby highways and other roads, and other pertinent features. A ground survey is not required to obtain this information. (All maps and drawings must be submitted on 8½ by 11 inch sheets.)

4. Plan, profile, and cross-section views of all work (fills, excavations, structures, etc.), both permanent and temporary, in, or adjacent to, waters of the United States, including wetlands, and a description of the proposed activities and structures, such as the dimensions and/or locations of highways and roads (both temporary and permanent), coffer dams, equipment ramps, borrow pits, disposal areas, staging areas, haul roads, and other project related areas within the USACE permit area(s). The permit area(s) includes all waters of the United States affected by activities associated with the project, as well as any additional area of non-waters of the United States in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the United States. The USACE permit area(s) includes borrow pits, disposal areas, staging areas, etc. in many cases. A description of the proposed work should include such information as the height, width, and length of structures and fills, widths of cleared rights-of-way, location of all affected areas of waters of the United States, and the size and spacing of culverts, bridges and other crossings of waters of the United States. (All maps and drawings must be submitted on 8½ by 11 inch sheets.)

5. The volume of material proposed to be discharged into and/or excavated from waters of the United States and the proposed type and source of the material.

6. A written discussion of the alternatives considered and the rationale for selecting the proposed alternative as the least environmentally damaging practicable alternative. Practicable alternatives that do not involve a discharge into a special aquatic site, such as wetlands, are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. The package should also include documentation that the amount of area impacted is the minimum necessary to accomplish the project.
7. An assessment of the adverse and beneficial effects, both permanent and temporary, of the proposed work and documentation that the work would result in no more than a minimal adverse impact on the aquatic environment.

8. A compensatory mitigation plan for unavoidable adverse impacts to the aquatic environment. This plan should include a description of proposed appropriate and practicable actions that would restore, enhance, protect, and/or replace the functions and values of the aquatic ecosystem unavoidably lost in the project area because of the proposed work.

9. A discussion documenting whether any species listed as endangered or threatened under the Endangered Species Act might be affected by, or found in the vicinity of, the USACE permit area for the proposed project. Direct coordination with the FWS concerning the potential impact of the entire project on endangered and threatened species is strongly encouraged.

10. A discussion documenting whether any cultural resources, particularly those historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), would be affected by, or are in the vicinity of, the USACE permit area for the proposed project.

11. Documentation that any permanent above-grade fills in waters of the United States within the 100-year floodplain comply with FEMA, or FEMA-approved local, floodplain development requirements.

12. The applicant should include any other relevant information, including information on hydrology and hydraulics.
December 27, 2011

Salvador Salinas  
State Conservationist  
Natural Resources Conservation Service  
101 South Main  
Temple, TX 76501

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Salinas:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUC).

We are requesting information on the possible effects of the proposed project on soils and any recommendations you have to minimize or avoid these effects. We also seek your assessment of the compatibility of the proposal with State and local government and private programs and policies to protect farmland.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox  
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
January 19, 2012

Mr. Larry Cox
Cox & McClain
6010 Balcones Dr
Suite 210
Austin, Texas 78731

Dear Mr. Cox:

We have reviewed the information provided in your correspondence dated December 27, 2011, concerning the proposed Sandy Transmission Line and Substation Project in Grimes, Walker, and Montgomery Counties, Texas. This review is part of the National Environmental Policy Act (NEPA) evaluation for Rural Utilities Service. We have evaluated the proposed sites as required by the Farmland Protection Policy Act (FPPA).

The proposed project does not contain Important Farmland Soils on any of the substations and we do not normally consider transmission lines to be a conversion of farmland because the site can still be used after construction. We have completed a Farmland Conversion Impact Rating (form AD-1006) indicating the exemptions.

If you have any questions please contact Wayne Gabriel at (254) 742-9855; Fax (254)-742-9859.

Sincerely,

[Signature]
SALVADOR SALINAS
State Conservationist

Enclosure
**FARMLAND CONVERSION IMPACT RATING**

**PART I** (To be completed by Federal Agency)  
Date Of Land Evaluation Request: December 27, 2011

<table>
<thead>
<tr>
<th>Name of Project</th>
<th>Sandy Transmission Lines/Substation Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Land Use</td>
<td>County and State Grimes, Walker, Montgomery Counties, Texas</td>
</tr>
</tbody>
</table>

**PART II** (To be completed by NRCS)  
Date Request Received By NRCS: January 4, 2012

<table>
<thead>
<tr>
<th>Does the site contain prime, unique, statewide or local important farmland?</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(If no, the FPPA does not apply - do not complete additional parts of this form)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Major Crop(s)</th>
<th>Farmland In Gov't. Jurisdiction</th>
<th>Amount of Farmland As Defined in FPPA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acres: %</td>
<td>Acres: %</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Land Evaluation System Used</th>
<th>Name of State or Local Site Assessment System</th>
<th>Date Land Evaluation Returned by NRCS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>12312010</td>
</tr>
</tbody>
</table>

**PART III** (To be completed by Federal Agency)  
Alternative Site Rating

<table>
<thead>
<tr>
<th>Site A</th>
<th>Site B</th>
<th>Site C</th>
<th>Site D</th>
</tr>
</thead>
</table>

**PART IV** (To be completed by NRCS) Land Evaluation Information

| A. Total Acres Prime And Unique Farmland |
| B. Total Acres Statewide Important or Local Important Farmland |
| C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted |
| D. Percentage Of Farmland in Gov't. Jurisdiction With Same Or Higher Relative Value |

**PART V** (To be completed by NRCS) Land Evaluation Criteria

Relative Value Of Farmland To Be Converted (Scale of 0 to 100 Points)

**PART VI** (To be completed by Federal Agency) Site Assessment Criteria  
(Criteria are explained in 7 CFR 689.5.b. For Corridor project use form NRCS-CPA-106)

<table>
<thead>
<tr>
<th>Maximum Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site A</td>
</tr>
<tr>
<td>--------</td>
</tr>
</tbody>
</table>

1. Area In Non-urban Use  
2. Perimeter In Non-urban Use  
3. Percent Of Site Being Farmed  
4. Protection Provided By State and Local Government  
5. Distance From Urban Built-up Area  
6. Distance To Urban Support Services  
7. Size Of Present Farm Unit Compared To Average  
8. Creation Of Non-farmable Farmland  
9. Availability Of Farm Support Services  
10. On-Farm Investments  
11. Effects Of Conversion On Farm Support Services  
12. Compatibility With Existing Agricultural Use  
TOTAL SITE ASSESSMENT POINTS: 160

**PART VII** (To be completed by Federal Agency)  
Relative Value Of Farmland (From Part V)  
Total Site Assessment (From Part VI above or local site assessment)  
TOTAL POINTS (Total of above 2 lines): 280

Was A Local Site Assessment Used?  
YES [ ]  NO [ ]

Site Selected: Date Of Selection:

Reason For Selection:

Name of Federal agency representative completing this form: Date:

*(See Instructions on reverse side)*

Form AD-1006 (03-02)
December 27, 2011

John Bertling
Precinct 1
Grimes County Commissioner
P.O. Box 510
Anderson, TX 77830

RE: BEPC's Sandy Transmission Line and Substation Project - Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner Bertling:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmc lain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731 512.338.2223
December 27, 2011

Randy Krueger
Precinct 2
Grimes County Commissioner
8512 C.R. 204
Plantersville, TX 77363

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner Krueger:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
December 27, 2011

Julian Melchor, Jr.
Precinct 3
Grimes County Commissioner
208 S. Judson # 14
Navasota, TX 77868

RE: BEPC's Sandy Transmission Line and Substation Project - Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner Melchor:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal
December 27, 2011

Pam Finke  
Precinct 4  
Grimes County Commissioner  
382 FM 149 West  
Anderson, TX 77830

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner Finke:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kv transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox  
Principal
December 27, 2011

Ronnie White  
Precinct 2  
Walker County Commissioner  
123 Booker Rd  
Huntsville, TX 77340  

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner White:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmcain.com.

Sincerely,

Larry Cox  
Principal
December 27, 2011

Mike Meador
Precinct 1
Montgomery County Commissioners
510 Hwy 75 North
Willis, TX 77378

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Commissioner Meador:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

[Signature]
Larry Cox
Principal
December 27, 2011

Judge Betty Shiflett
Grimes County Judge
P.O. Box 150
Anderson, TX 77830

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Judge Shiflett:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal
February 5, 2012

Mr. Larry Cox
Cox/McLain Environmental Consulting
6010 Balcones Drive, Suite 210
Austin, Texas 78731

Re: BEPC’s Sandy Transmission Line and Substation Project

Dear Mr. Cox:

Montgomery County has received your letter regarding the preparation of a route study and environmental report for the Rural Utilities Service and the Public Utilities Commission of Texas. In your transmittal, you have attached two maps which show an approximate location of the 138 kV transmission line in relation to the roadways in that vicinity. After enlarging the maps to a more readable scale, it would appear that part of the transmission line network falls directly on top of a portion of two roadways that are currently maintained by Montgomery County Precinct 1.

Please be informed that, although we understand that the maps are clearly not “engineering” drawings, we feel it necessary to inform you that there is no available corridor within the rights of way of either Bays Chapel Road or Red Top Road on which it appears that the transmission line would be encroaching. However, crossing perpendicular to the right of way is allowable.

Please inform us of the intention of the study to address location issues as they relate to County road right of way. We look forward to a reply.

Sincerely,

Mark J. Mooney, P.E.
County Engineer

MJM/mni

cc: Alan B. Sadler, County Judge
    Mike Meador, Commissioner Precinct 1
December 27, 2011

Judge Alan B. Sadler
Montgomery County Judge
501 N Thompson
Conroe, TX 77301

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Judge Sadler:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

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We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal

MONTGOMERY COUNTY ENGINEERING DEPARTMENT

JAN 05 2012

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
December 27, 2011

Judge Danny Pierce
Walker County Judge
1100 University Ave, Room 204
Huntsville, TX 77340

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Judge Pierce:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding potential constraints that should be considered in planning the proposed project and any recommendations you have to minimize or avoid these effects. Any information you may have about planned major development or construction projects in the area would also be useful.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmc lain.com.

Sincerely,

Larry Cox
Principal
December 27, 2011

Judge Alan B. Sadler  
Montgomery County Judge  
501 N Thompson  
Conroe, TX 77301

RE: BEPC’s Sandy Transmission Line and Substation Project — Grimes, Walker, and Montgomery Counties, Texas

Dear Judge Sadler:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

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We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmcclain.com.

Sincerely,

Larry Cox  
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
December 27, 2011

David Fulton
Director
Texas Department of Transportation, Aviation Division
125 E 11th St
Austin, TX 78701-2483

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Fulton:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding airports/airstrips in the project vicinity, particularly concerning planned improvements to existing airports, new airstrips, or airfields located within approximately 10,000 feet of the study corridor. In addition, if you are aware of any new major developments or construction projects within the study corridor, we would appreciate receiving that information as well.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal
Mr. Larry Cox  
Cox / McLain  
6010 Balcones Drive  
Suite 210  
Austin, TX 78731

January 5, 2012

Dear Mr. Cox,

I received your letters dated December 27th, 2011 concerning BEPC’s transmission line and substation project in Grimes, Walker, and Montgomery counties.

Title 14, US Code, Part 77 of the Federal Aviation Administration’s (FAA) Federal Aviation Regulations (FAR) requires notice to the FAA if the facility to be constructed fits any of the below listed conditions:

77.9 (a) Any construction or alteration of more than 200' above the surface of the ground at its site.

77.9 (b) (1) to (3) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.

(2) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.

(3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.

77.9 (c) (c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an...
amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.

There are no public use airports or heliports in or near the study area.

If any of the criteria of FAR 77.9 (a) above is met, the FAA must be notified in four copies using FAA Form 7460-1, "Notice of Proposed Construction or Alteration".

This form, supporting documents, and the full text of FAR part 77 are available at www.faa.gov_Airports tab _Engineering, Design & Construction_Obstruction Evaluation/Airport Airspace Analysis_Airspace/Landing Area Forms.

Sincerely,

[Signature]

William B. Gunn
Compliance
December 27, 2011

David Fulton
Director
Texas Department of Transportation, Aviation Division
125 E 11th St
Austin, TX 78701-2483

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Fulton:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 KV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information regarding airports/airstrips in the project vicinity, particularly concerning planned improvements to existing airports, new airstrips, or airfields located within approximately 10,000 feet of the study corridor. In addition, if you are aware of any new major developments or construction projects within the study corridor, we would appreciate receiving that information as well.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox
Principal
December 27, 2011

JaSal Morris  
Acting Forest Supervisor  
U.S. Forest Service  
2221 N. Raguet St  
Lufkin, TX 75904

RE: BEPC's Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Morris:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information relating to environmental constraints, such as forestland and the nearby Sam Houston National Forest, within the project corridor. We also seek your assessment of the compatibility of the proposal with programs and policies to protect forestland.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmclain.com.

Sincerely,

Larry Cox  
Principal
December 27, 2011

Warren Oja
District Ranger
Sam Houston National Forest
394 FM 1375 West
New Waverly, TX 77358

RE: BEPC’s Sandy Transmission Line and Substation Project – Grimes, Walker, and Montgomery Counties, Texas

Dear Mr. Oja:

Brazos Electric Power Cooperative, Inc. (BEPC) is in the process of preparing a route study and environmental report for the Rural Utilities Service and the Public Utility Commission of Texas in order that it may assess the environmental impacts of the construction of a new transmission line and substation in Grimes, Walker, and Montgomery Counties, Texas. The project is being proposed to supply the continually increasing demands of the customers of the member distribution cooperatives with a reliable and adequate supply of economical electrical power. The proposed activity would involve the construction of a five acre substation at the eastern end of the study area and the construction of a new location 138 kV transmission line to extend from the substation to a tap location on the western end of the study area. The transmission line right-of-way would be 70 feet wide. The length of the transmission line would be approximately 15 miles.

At this stage of the project, a study area has been established, as shown on the enclosed road-based map and U.S. Geological Survey map, and potential constraints for substation location and transmission line routing are being identified within the study area. These constraints will be considered (and avoided as much as practicable) in the development of multiple substation location and transmission line route alternatives within the study area. An Environmental Report, including a routing study, is being prepared to evaluate the impact of project alternatives on human and natural resources. This routing study will be included in an Application for Certificate of Convenience and Necessity to be submitted to the Public Utility Commission of Texas (PUCT).

We are requesting information relating to environmental constraints and the Sam Houston National Forest within the project corridor. If there is a recent map showing the forest boundaries, we would appreciate receiving that. We also seek your assessment of the compatibility of the proposal with programs and policies to protect forestland.

We would appreciate a response within 30 days. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or larry@coxmcain.com.

Sincerely,

Larry Cox
Principal

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
File Code: 2700
Date: January 4, 2012

Larry Cox
Principal – Cox / McLain Environmental Consulting
6010 Balcones Dr. Suite 210
Austin, TX 78731

Mr. Cox,

Thank you for your request concerning the Brazos Electric Power Cooperative, Inc. (BEPC) plans for surveying and installing a 138 kV transmission line and substation. As we discussed in our conversation earlier this morning, the line does not include a surface occupancy of the Sam Houston National Forest (SHNF) and therefore will not require a permit from the forest.

Per your request, there are only two issues of concern for the SHNF:

1. Protection of the delineated boundary line separating the SHNF from the adjacent private land.

2. Ensuring all water runoff created as a result of the project be controlled and directed away from public lands.

Enclosed is a plat with boundary description, this should aid in your planning for the Rights-of-Way, and ensure that the boundary line is left undisturbed. Our boundaries are marked on the ground using red paint on blazes marked on trees generally found within three feet of the boundary line. Each of the corners will include corner monuments as well as a couple of “witness trees." Please avoid all blazed trees and monuments, should a need occur to remove any of the above mentioned markers please contact this office a minimum of two weeks prior to removal.

Should you need any additional information please feel free to contact Frank Stranomier at fstranomier@fs.fed.us or at the phone number and address listed in the letter head above.

Thank you,

Warren L. Oja
District Ranger
Sam Houston N.F.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (800) 795-3272 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.
T. E. SIMS TRACT (J72)
WALKER COUNTY, TEXAS
261 ACRES
J.D.F.-SUR.
1935
SCALE: 1"=20 CHAINS

Note: For bearings and distances see description to which this map is attached and made a part of.
A GENERAL DESCRIPTION OF THE BOUNDARY OF THE
TR. RASING TRACT 3
S.W. 1/4 NE. 1/4 NW. 1/4 of Section 18, Township 12 N., Range 37 W.,
on the farm of Pasture, Walker County, Texas.

The following is a true and correct description of
all that certain tract or parcel of land lying and,
being in Walker County, Texas, on the waters of
West Sandy Creek, originating in part the William C.
Cox patented survey, Abstract No. 209, dated July 30,
1931; as shown on the plat attached hereto and made a
part of this description.

All bearings in this description are taken from
the true meridian and all distances are expressed in
chains.

Beginning at corner 1, common to the Delta Land
& Timber Co. Tract (31-32) and the lands of J. J. Leonard,
identical with the fourth corner of the William C. Gill
survey, Abstract No. 209; and the beginning corner of the
William Long survey, dated May 20, 1941, on the northernly
line of the William C. Gill survey, Abstract No. 209,
dated July 30, 1931, a stake at fence corner witnessed by
scribed bearing trees; a 9" post oak bears S. 10° 3' 32".
.69 chain distant and on 3" post oak bears S. 25° 35' 34.83
.10 chain distant.

Thence N. 00° 59' E., with the lands of J. J. Leonard,
Florence Myra Barrett et al., and Dave Beeman, common to
the William C. Gill survey, Abstract No. 209, and the
William Long survey, 46.36 chains to corner 2, a stake at
fence corner witnessed by scribed bearing trees.

Thence two (2) lines with the lands of J. A. Bruner,
within the William C. Gill survey, Abstract No. 209:

1. 09° 31' E., 46.36 chains to corner 3, a stake at fence
corner witnessed by an old marked bearing tree and scribed
bearing tree;
S. 0°16' E., 36.16 chains to corner 4, on the northerly line of the Augustus Steel Survey, dated July 31, 1945, a stake at fondo corner in south of a lane, witnessed by Serfand bearing trees.

Thence west, with the lands of W. L. Dean and Tract (Jl-II), common to the William C. Gill Survey, Abstract No. 300, and to the Augustus Steel Survey and the William C. Gill Survey, Abstract No. A-286. At 3.30 chains corner B of Tract (Jl-II), a P. S. standard concrete post marked J-75. At 47.80 chains the place of beginning, containing 50.1 acres, be the same more or less.
Appendix B  Public Involvement Information
Brazos Electric Power Cooperative, Inc. and Cox|McLain Environmental Consulting, Inc. will be holding two “come and go” public meetings for a proposed transmission line and substation project in Grimes, Walker, and Montgomery Counties, Texas. Brazos Electric plans to construct approximately 13 to 16 miles of 138 kV single circuit transmission line with single-pole structures from a new location five-acre substation to be sited in western Walker County and proceeding west to a tap point along an existing transmission line in Grimes County.

There will be two meetings at which the same information will be available, for your convenience. The first will be held from 3:00 p.m. to 7:00 p.m. on Tuesday, February 28, 2012, at the West Sandy Community Center/Old San Jacinto Schoolhouse, located at 732 FM 3179 (at the intersection of FM 3179 and FM 1791), Huntsville, TX 77340. The second will be held from 3:00 p.m. to 7:00 p.m. on Thursday, March 1, 2012, at the Singleton Community Center, located at 13301 Hwy 90 N, Bedias, TX 77831.

At the meetings, exhibits will be available which explain the need for the project, depict alternative routes and substation locations, and illustrate the transmission structures. Staff from Brazos Electric and Cox|McLain Environmental Consulting will be on hand to share information and answer questions about the project. We look forward to receiving your input.

For additional information, or to provide written comments, please contact Christine Polito at Cox|McLain Environmental Consulting, 6010 Balcones Drive #210, Austin, Texas 78731, or christine@coxmclain.com, or call (512) 338-2223, or contact Richard Chambers at Brazos Electric Power Cooperative, 2404 La Salle Avenue, Waco, Texas 76702, or rchambers@brazoselectric.com, or call (254) 750-6369.

Please note that alignments shown are preliminary and subject to change (routes may be added, deleted, or modified).
February 17, 2012

RE: Public Meeting Announcement
Proposed Sandy Transmission Line and Substation Project
Grimes, Walker, and Montgomery Counties, Texas

Dear Landowner:

You are invited to attend a “come and go” public meeting sponsored by Brazos Electric Power Cooperative, Inc. and Cox|McLain Environmental Consulting, Inc. The purpose of this meeting is to better acquaint you with Brazos Electric’s proposed Sandy Transmission Line and Substation project that is planned in Grimes, Walker, and Montgomery Counties, Texas. There will be two meetings at which the same information will be available, for your convenience. The first will be held from 3:00 p.m. to 7:00 p.m. on Tuesday, February 28, 2012, at the West Sandy Community Center/Old San Jacinto Schoolhouse, located at 732 FM 3179 (at the intersection of FM 3179 and FM 1791), Huntsville, TX 77340. The second will be held from 3:00 p.m. to 7:00 p.m. on Thursday, March 1, 2012, at the Singleton Community Center, located at 13301 Hwy 90 N, Bedias, TX 77831.

Brazos Electric plans to construct approximately 13 to 16 miles of 138 kV single circuit transmission line with single-pole structures from a new location five-acre substation to be sited in western Walker County and proceeding west to a tap point along an existing transmission line in Grimes County. The transmission line right-of-way would be 70 feet wide (100 feet wide where needed for angled structures). The proposed project will provide for increased reliability and better continuity of service for Brazos Electric’s member cooperatives and its member customers. A map depicting the potential transmission line routes and substation locations is attached for your review. Brazos Electric will select multiple alternatives, using the links on the attached map, to be submitted to the Public Utility Commission of Texas (PUCT). When the PUCT submittal takes place, Brazos Electric will notify affected landowners along these alternatives and will provide information on how to be further involved in the transmission line review process at the PUCT. If approved by the PUCT, only one transmission line route will be constructed.

You are receiving this letter because County tax records indicate that you own property on or near one of the possible transmission line routes and we would like to hear your comments on the project. At the meeting, exhibits will be available which explain the need for the project, depict alternative routes and substation locations, and illustrate the transmission structures. Staff from Brazos Electric, MidSouth Synergy, and Cox|McLain Environmental Consulting will be on hand to share information and answer questions about the project.

We hope that you will be able to attend the public meeting. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or christine@coxmclain.com, or contact Richard Chambers with Brazos Electric Power Cooperative at (254) 750-6369 or rchambers@brazoselectric.com.

Sincerely,

Christine Polito
Ecologist

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
Licensing Process for New Transmission Facilities

Planning/Need for the Project

Routing Study and Environmental Assessment
- Delineate Study Area
- Collect/ Review Environmental/ Historical/ Archeological Data
- Identify Constraints/ ID Preliminary Routes
- Public Information Meetings
- Evaluate Preferred/ Alternate Routes
- Submit Final Report

Certificate of Convenience and Necessity (CCN) Application Preparation
Typically Two Month Process

Public Utility Commission of Texas (PUCT) Processing
CCN Filing
Provide Notice
Direct Mail/ Public/ City and County Government Agencies/ Other Utilities

Intervention Period
45 days

YES

Contested CCN
ERCOT Critical = 180 Day Process
All Other = 1 Year Process
- Referred to State Office of Administrative Hearings (SOAH)
- Prehearing Conference(s)
- Discovery
- Pre-filed Testimony
- Hearing on the Merits
- Briefing
- Proposal for Decision

Uncontested CCN
Administrative Processing = 80 days
- PUC Review/ Recommendation
- Staff Recommendation
- Issues Resolution

NO

Intervention?

Administrative Law Judge Prepares Proposed Final Order
Exceptions/ Responses to Proposed Order

Approval

PUCT Decision
Whole/ Partial Grant/ Denial

Denial

Motion for Rehearing
Appeal of PUCT Decision
Travis County District Court

Surveying
Right-of-Way
Acquisition Permitting

Project Design Material
Acquisition Construction
- Clearing
- Soil Investigation
- Structures
- Conductor Installation
- Clean-up

Project Completion

KEY
- Planning Phase
- Routing and Environmental Assessment Phase
- Application Phase
- Regulatory Phase
- Construction Phase
Sandy Transmission Line and Substation Project

Date: 1/20/2012

*Alignments shown are preliminary and subject to change
## BEPC Sandy Project
### List of Public Officials

<table>
<thead>
<tr>
<th>Name</th>
<th>Title 1</th>
<th>Title 2</th>
<th>Address</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
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<tbody>
<tr>
<td>John Bertling</td>
<td>Precinct 1</td>
<td>Grimes County Commissioner</td>
<td>P.O. Box 510</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
</tr>
<tr>
<td>Randy Krueger</td>
<td>Precinct 2</td>
<td>Grimes County Commissioner</td>
<td>8512 CR 204</td>
<td>Plantersville</td>
<td>TX</td>
<td>77363</td>
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<tr>
<td>Julian Melchor, Jr.</td>
<td>Precinct 3</td>
<td>Grimes County Commissioner</td>
<td>208 S. Judson #14</td>
<td>Navasota</td>
<td>TX</td>
<td>77868</td>
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<tr>
<td>Pam Finke</td>
<td>Precinct 4</td>
<td>Grimes County Commissioner</td>
<td>382 FM 149 West</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
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<tr>
<td>Judge Betty Shiflett</td>
<td></td>
<td>Grimes County Judge</td>
<td>P.O. Box 160</td>
<td>Anderson</td>
<td>TX</td>
<td>77830</td>
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<tr>
<td>Ronnie White</td>
<td>Precinct 2</td>
<td>Walker County Commissioner</td>
<td>123 Booker Rd</td>
<td>Huntsville</td>
<td>TX</td>
<td>77340</td>
</tr>
<tr>
<td>Judge Danny Pierce</td>
<td></td>
<td>Walker County Judge</td>
<td>1100 University Ave, Room 204</td>
<td>Huntsville</td>
<td>TX</td>
<td>77340</td>
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<tr>
<td>Mike Meador</td>
<td>Precinct 1</td>
<td>Montgomery County Commissioner</td>
<td>510 Hwy 75 North</td>
<td>Willis</td>
<td>TX</td>
<td>77378</td>
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<tr>
<td>Judge Alan B. Sadler</td>
<td></td>
<td>Montgomery County Judge</td>
<td>501 N Thompson</td>
<td>Conroe</td>
<td>TX</td>
<td>77301</td>
</tr>
<tr>
<td>Mohammed Alley, P.E.</td>
<td>Electric Division</td>
<td>Public Utility Commission of Texas</td>
<td>1701 N Congress</td>
<td>Austin</td>
<td>TX</td>
<td>78711-3326</td>
</tr>
</tbody>
</table>
February 17, 2012

RE: Public Meeting Announcement
Proposed Sandy Transmission Line and Substation Project
Grimes, Walker, and Montgomery Counties, Texas

Dear Office Holder:

You are invited to attend a “come and go” public meeting sponsored by Brazos Electric Power Cooperative, Inc. and Cox|McLain Environmental Consulting, Inc. The purpose of this meeting is to better acquaint you with Brazos Electric’s proposed Sandy Transmission Line and Substation project that is planned in Grimes, Walker, and Montgomery Counties, Texas. There will be two meetings at which the same information will be available, for your convenience. The first will be held from 3:00 p.m. to 7:00 p.m. on Tuesday, February 28, 2012, at the West Sandy Community Center/Old San Jacinto Schoolhouse, located at 732 FM 3179 (at the intersection of FM 3179 and FM 1791), Huntsville, TX 77340. The second will be held from 3:00 p.m. to 7:00 p.m. on Thursday, March 1, 2012, at the Singleton Community Center, located at 13301 Hwy 90 N, Bedias, TX 77831.

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At the meeting, exhibits will be available which explain the need for the project, depict alternative routes and substation locations, and illustrate the transmission structures. Staff from Brazos Electric, MidSouth Synergy, and Cox|McLain Environmental Consulting will be on hand to share information and answer questions about the project.

We hope that you will be able to attend the public meeting. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or christine@coxmc lain.com, or contact Richard Chambers with Brazos Electric Power Cooperative at (254) 750-6369 or rchambers@brazoselectric.com.

Sincerely,

Christine Polito
Ecologist

6010 Balcones Drive, Suite 210, Austin, TX 78731  512.338.2223
Licensing Process for New Transmission Facilities

Planning/Need for the Project

Routing Study and Environmental Assessment
- Delineate Study Area
- Collect/ Review Environmental/ Historical/ Archeological Data
- Identify Constraints/ ID Preliminary Routes
- Public Information Meetings
- Evaluate Preferred/ Alternate Routes
- Submit Final Report

Certificate of Convenience and Necessity (CCN) Application Preparation
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Public Utility Commission of Texas (PUCT) Processing
CCN Filing
Provide Notice
Direct Mail/ Public/ City and County Government Agencies/ Other Utilities

Intervention Period
45 days

Contested CCN
ERCOT Critical = 180 Day Process
All Other = 1 Year Process
- Referred to State Office of Administrative Hearings (SOAH)
- Prehearing Conference(s)
- Discovery
- Pre-filed Testimony
- Hearing on the Merits
- Briefing
- Proposal for Decision

Uncontested CCN
Administrative Processing = 80 days
- PUC Review/ Recommendation
- Staff Recommendation
- Issues Resolution

Administrative Law Judge Prepares Proposed Final Order
Exceptions/ Responses to Proposed Order

Approval

PUCT Decision
Whole/ Partial Grant/ Denial

Denial

Surveying
Right-of-Way
Acquisition Permitting

Motion for Rehearing
Appeal of PUCT Decision
Travis County District Court

Project Completion

KEY
- Planning Phase
- Routing and Environmental Assessment Phase
- Application Phase
- Regulatory Phase
- Construction Phase
Photographs from February 28, 2012 Public Open House at West Sandy Community Center/Old San Jacinto Schoolhouse

Photo 1 West Sandy Community Center/Old San Jacinto Schoolhouse

Photo 2 Sign Outside of Community Center Advertising Meeting
Photo 3 Entrance to Community Center

Photo 4 Sign-In Table, with Sign-In Sheets, Meeting Information Packets, and Questionnaire Return Box
Photo 5 Exhibits Showing Typical Substation and Transmission Line Structures

Photo 6 Exhibits Showing the Proposed Routes at 1” = 1,000 feet Scale
Photo 7 Detailed Routing Maps – Series of 27 Maps at 1” = 300 feet Scale

Photo 8 Exhibit Explaining the Need for the Project
Photo 9 Exhibit Showing Mid-South Synergy's System without the Sandy Substation

Photo 10 Exhibit Showing Mid-South Synergy's System with the Sandy Substation
Photo 11: Exhibit explaining the licensing process for new transmission facilities.

Photo 12: Exhibit listing environmental considerations for routing transmission lines and siting substations.
Photo 13 Exhibit Explaining How Electricity Reaches Consumers

Photo 14 Exhibit Showing Mid-South Synergy’s Service Area
Photo 15 Exhibit Introducing Mid-South Synergy

Photo 16 Exhibit Showing Brazos Electric’s Service Area
Photo 17 Exhibit Introducing Brazos Electric

Photo 18 BEPC Pamphlets Available at the Meeting
Photo 19 Space Available for Completing Questionnaires

Photo 20 Meeting Attendees Signing In
Photo 21 Brazos Electric, Mid-South Synergy, and Cox|McLain Staff Discussing the Project with Meeting Attendees

Photo 22 Brazos Electric, Mid-South Synergy, and Cox|McLain Staff Discussing the Project with Meeting Attendees
Photo 23 Brazos Electric, Mid-South Synergy, and Cox|McLain Staff Discussing the Project with Meeting Attendees

Photo 24 Meeting Attendees Enjoying Refreshments
Photographs from March 1, 2012 Public Open House at Singleton Community Center

Photo 1 Sign Outside of Community Center Advertising Meeting

Photo 2 Entrance to Community Center
Photo 3 Sign-In Table, with Sign-In Sheets, Meeting Information Packets, and Questionnaire Return Box.

Photo 4 Exhibits Showing (from Left to Right) Project Need, Mid-South Synergy’s System with and without the Sandy Substation, Environmental Considerations, Licensing Process for Transmission Facilities, and How Electricity Reaches the Consumer.
Photo 5 Exhibits Showing Typical Substation Facilities and Typical Transmission Line Structures

Photo 6 Routing Maps Available at the Meeting
Photo 7 BEPC Pamphlets Available at the Meeting

Photo 8 Mid-South Synergy Pamphlets and Promotional Items Available at the Meeting
Photo 9 Meeting Attendees Signing In

Photo 10 Brazos Electric, Mid-South Synergy, and Cox|McLain Staff Discussing the Project with Meeting Attendees
Photo 11 Brazos Electric, Mid-South Synergy, and Cox|McLain Staff Discussing the Project with Meeting Attendees

Photo 12 Exhibit Explaining How Electricity Reaches Consumers
Welcome and thank you for taking the time to attend this open house for the proposed Sandy Transmission Line and Substation project. Brazos Electric Power Cooperative plans to construct approximately 13 to 16 miles of 138 kV single circuit transmission line with single-pole structures from a new location five-acre substation to be sited in western Walker County and proceeding west to a tap point along an existing transmission line in Grimes County. The transmission line right-of-way would be 70 feet wide (100 feet wide where needed for angled structures). The proposed project will provide for increased reliability and better continuity of service for Brazos Electric’s member cooperatives and its member customers. Brazos Electric will select multiple alternatives to be submitted to the Public Utility Commission of Texas (PUCT). When the PUCT submittal takes place, Brazos Electric will notify affected landowners along these alternatives and will provide information on how to be further involved in the transmission line review process at the PUCT. If approved by the PUCT, only one transmission line route will be constructed.

The purpose of this open house is for Brazos Electric to present information, answer your questions about the projects, and receive your ideas and concerns. You will notice that there are several exhibits around the room. A formal presentation is not planned; however, representatives of Brazos Electric, MidSouth Synergy, and Cox|Mclain Environmental Consulting, Inc., are available to answer questions about the proposed project. Please spend as much time as you need at each exhibit. Since this is an open house meeting, there may be times when one particular exhibit is very crowded. Please bear with us and we will make every attempt to address your concerns.

To ensure your comments are taken into consideration, please fill out your questionnaire and drop it in the collection box. If you would like to take your questionnaire home, please mail it to us within 7-10 days. If you have additional comments or questions, contact Christine Polito, Cox|Mclain Environmental Consulting, 6010 Balcones Drive #210, Austin, Texas 78731, or christine@coxmclain.com, or call (512) 338-2223, or contact Richard Chambers, Brazos Electric Power Cooperative, 2404 La Salle Avenue, Waco, Texas 76702, or rchambers@brazoselectric.com, or call (254) 750-6369.

Thank you again for attending this open house!
Keep Informed About the Project

For your convenience, Brazos Electric has established a website for the Sandy Transmission Line and Substation Project:

http://www.brazoselectric.com/projects/

Copies of maps and exhibits from the public open house are available on the site. You can use the site to view and print maps of the proposed alignments in relation to your property. The site will be updated as new information becomes available.
Licensing Process for New Transmission Facilities

Planning/Need for the Project

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- Right-of-Way
- Acquisition Permitting

Project Design Material
- Acquisition Construction
  - Clearing
  - Soil Investigation
  - Structures
  - Conductor Installation
  - Clean-up

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- Regulatory Phase
- Construction Phase
The Sandy Transmission Line and Substation Project is located in Montgomery and Walker Counties, and Grimes County. The project includes the Sandy Transmission Line and a substation. Existing BEPC (Brazos Electric Power Cooperative) facilities and the proposed route are marked on the map. Alignments are preliminary and subject to change. The map was created on 1/20/2012.
SANDY TRANSMISSION LINE AND SUBSTATION PROJECT

Welcome and thank you for taking the time to attend this public open-house meeting for the proposed Sandy Transmission Line and Substation project. After you have visited the various display stations around the room and talked with the project planners, please fill out this questionnaire and leave it with the representative at the door. Your responses will help us understand the community’s concerns and aid the project team in the route selection process. Again, thank you for your time and interest!

1. In your opinion, has the need for the project been adequately explained?
   
   Yes ______  No ______
   
   If “no”, how could we have improved this effort? What did you not understand?

2. Several factors are considered when routing a transmission line, including potential impacts to:
   
   - Residences, businesses, schools, churches, hospitals, nursing homes;
   - Cemeteries, parks, and/or recreational areas;
   - Commercial radio transmitters, microwave relay stations and similar electronic installations;
   - Airports, runways;
   - Agricultural areas irrigated by traveling irrigation systems;
   - Historical and archeological sites;
   - Environmentally sensitive areas, endangered species; and
   - Proximity to existing corridors.

   (A) Do you believe that all relevant factors are being considered?

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3. Please list any additional concerns that you believe need to be addressed.

4. Please rate the acceptability of locating a new transmission line with respect to each of the following land uses as 1 (preferable), 2 (acceptable), or 3 (unacceptable). Circle the appropriate number for each land use.

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7. Please indicate your preferred end-to-end route utilizing the links identified on the maps.
8. Would you like a follow-up contact to discuss the project in more detail? What is the best way for our representative to contact you?

9. Please provide the following information:

   Name: _______________________________________________________________________

   Street Address: __________________________________________________________________

   City, State, Zip Code: __________________________________________________________________

   Phone: _______________________________________________________________________

   Email: _______________________________________________________________________

THANK YOU FOR YOUR COMMENTS

PLEASE DROP THIS IN THE COMMENT BOX OR RETURN TO THE ADDRESS SHOWN BELOW WITHIN 7-10 DAYS.

Please send it to:

   Attn: Christine Polito
   Cox|McLain Environmental Consulting, Inc.
   6010 Balcones Drive # 210
   Austin, Texas 78731
   Fax (512) 338-2225
   christine@coxmclain.com
March 12, 2012

RE: Proposed Sandy Transmission Line and Substation Project
Grimes, Walker, and Montgomery Counties, Texas

Dear Landowner:

We appreciate your attendance at one of the public meetings on the proposed Sandy Transmission Line and Substation Project. Your questions, comments, and observations are invaluable in evaluating project alternatives. We will continue the routing study process and will keep you informed of the progress. When final routing is complete, Brazos Electric will apply to the Public Utility Commission of Texas (PUCT) for Certificate of Convenience and Necessity (CCN) approval in order to construct the proposed project. At that time, all property owners within 300 feet of the routes and substations selected for submission to the PUCT will again be notified.

Please feel free to visit the website that Brazos Electric set up for the project, www.brazoselectric.com/projects/, to view maps and other project-related information. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or christine@coxmcclain.com, or contact Richard Chambers with Brazos Electric Power Cooperative at (254) 750-6369 or rchambers@brazoselectric.com.

Sincerely,

Christine Polito
Ecologist
March 12, 2012

RE: Proposed Sandy Transmission Line and Substation Project
Grimes, Walker, and Montgomery Counties, Texas

Dear Landowner:

You are receiving this letter because County tax records indicate that you own property on or near one of the possible transmission line routes for the proposed Sandy Transmission Line and Substation Project and we would like to hear your comments on the project. Public meetings were held for this project on February 28 and March 1, 2012. We are sorry that you did not receive a mailed notice in advance of the public meetings. Many of your neighbors attended, and their interest, concerns, and comments will assist us in routing and locating the line.

We will continue the routing study process and will keep you informed of the progress. When final routing is complete, Brazos Electric will apply to the Public Utility Commission of Texas (PUCT) for Certificate of Convenience and Necessity (CCN) approval in order to construct the proposed project. At that time, all property owners within 300 feet of the routes and substations selected for submission to the PUCT will again be notified.

Enclosed is the packet of information and questionnaire given to attendees of the public meetings. Your comments and concerns are important, and we urge you to return the questionnaire or other comments to our office within 10 days. Please feel free to visit the website that Brazos Electric set up for the project, www.brazoselectric.com/projects/, to view maps and other project-related information. If you need any further information or wish to discuss the project, please contact me at (512) 338-2223 or christine@coxmc lain.com, or contact Richard Chambers with Brazos Electric Power Cooperative at (254) 750-6369 or rchambers@brazoselectric.com.

Sincerely,

Christine Polito
Ecologist
Welcome and thank you for taking the time to attend this open house for the proposed Sandy Transmission Line and Substation project. Brazos Electric Power Cooperative plans to construct approximately 13 to 16 miles of 138 kV single circuit transmission line with single-pole structures from a new location five-acre substation to be sited in western Walker County and proceeding west to a tap point along an existing transmission line in Grimes County. The transmission line right-of-way would be 70 feet wide (100 feet wide where needed for angled structures). The proposed project will provide for increased reliability and better continuity of service for Brazos Electric’s member cooperatives and its member customers. Brazos Electric will select multiple alternatives to be submitted to the Public Utility Commission of Texas (PUCT). When the PUCT submittal takes place, Brazos Electric will notify affected landowners along these alternatives and will provide information on how to be further involved in the transmission line review process at the PUCT. If approved by the PUCT, only one transmission line route will be constructed.

The purpose of this open house is for Brazos Electric to present information, answer your questions about the projects, and receive your ideas and concerns. You will notice that there are several exhibits around the room. A formal presentation is not planned; however, representatives of Brazos Electric, MidSouth Synergy, and Cox|McLain Environmental Consulting, Inc., are available to answer questions about the proposed project. Please spend as much time as you need at each exhibit. Since this is an open house meeting, there may be times when one particular exhibit is very crowded. Please bear with us and we will make every attempt to address your concerns.

To ensure your comments are taken into consideration, please fill out your questionnaire and drop it in the collection box. If you would like to take your questionnaire home, please mail it to us within 7-10 days. If you have additional comments or questions, contact Christine Polito, Cox|McLain Environmental Consulting, 6010 Balcones Drive #210, Austin, Texas 78731, or christine@coxmclain.com, or call (512) 338-2223, or contact Richard Chambers, Brazos Electric Power Cooperative, 2404 La Salle Avenue, Waco, Texas 76702, or rchambers@brazoselectric.com, or call (254) 750-6369.

Thank you again for attending this open house!
Keep Informed About the Project

For your convenience, Brazos Electric has established a website for the Sandy Transmission Line and Substation Project:

http://www.brazoselectric.com/projects/

Copies of maps and exhibits from the public open house are available on the site. You can use the site to view and print maps of the proposed alignments in relation to your property. The site will be updated as new information becomes available.
Licensing Process for New Transmission Facilities

Planning/Need for the Project

Routing Study and Environmental Assessment
- Delineate Study Area
- Collect/ Review Environmental/ Historical/ Archeological Data
- Identify Constraints/ ID Preliminary Routes
- Public Information Meetings
- Evaluate Preferred/ Alternate Routes
- Submit Final Report

Certificate of Convenience and Necessity (CCN) Application Preparation
Typically Two Month Process

Public Utility Commission of Texas (PUCT) Processing
CCN Filing
Provide Notice
Direct Mail/ Public/ City and County Government Agencies/ Other Utilities
Intervention Period
45 days

Contested CCN
ERCOT Critical = 180 Day Process
All Other = 1 Year Process
- Referred to State Office of Administrative Hearings (SOAH)
- Prehearing Conference(s)
- Discovery
- Pre-filed Testimony
- Hearing on the Merits
- Briefing
- Proposal for Decision

Uncontested CCN
Administrative Processing = 80 days
- PUC Review/ Recommendation
- Staff Recommendation
- Issues Resolution

Administrative Law Judge Prepares Proposed Final Order
Exceptions/ Responses to Proposed Order

Approval

Surveying
Right-of-Way
Acquisition Permitting

Motion for Rehearing
Appeal of PUCT Decision
Travis County District Court

PUCT Decision
Whole/ Partial Grant/ Denial

Denial

Project Completion

KEY
- Planning Phase
- Routing and Environmental Assessment Phase
- Application Phase
- Regulatory Phase
- Construction Phase
QUESTIONNAIRE

SANDY TRANSMISSION LINE AND SUBSTATION PROJECT

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   (A) Do you believe that all relevant factors are being considered?

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THANK YOU FOR YOUR COMMENTS

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Grimes, Walker, and Montgomery Counties, Texas

Dear Landowner:

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Ecologist
SANDY TRANSMISSION LINE AND SUBSTATION PROJECT
PUBLIC OPEN HOUSE
West Sandy Community Center/Old San Jacinto Schoolhouse – February 28, 2012
Singleton Community Center – March 1, 2012

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